

THE MADRAS LEGISLATIVE COUNCIL.

Monday, the 7th August 1950.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Mr. Chairman (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Allegations against some ministers.

* 1 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Chief Minister be pleased to state—

(a) whether an enquiry into certain allegations against certain past and present ministers was held by him, and if so, whether he held it of his own accord or at the instance of any higher authority;

(b) whether any person or persons were associated with him in this enquiry;

(c) what the allegations are;

(d) whether the person or persons associated with him had access to certain files, even confidential ones;

(e) whether in the course of the enquiry certain officers also were examined;

(f) under what provision of law or procedure either access to files or examination of officers was permitted;

(g) whether any report of the enquiry was submitted to any higher authority;

(h) what the findings of the enquiry were; and

(i) whether the Government will lay on the table of the House all the relevant papers including the findings of the enquiry?

THE HON. DR. T. S. S. RAJAN (on behalf of the Hon. the Chief Minister):—“(a) No enquiry was held by the Chief Minister.

“(b) to (i) Does not arise.”

SRI R. SURYANARAYANA RAO:—“Sir, are the Government prepared to say that no enquiry was held and all the reports that appeared in the Press are false?”

THE HON. DR. T. S. S. RAJAN:—“I cannot express any opinion about what appeared in the Press. I know what information I can give on the matter and it is that no enquiry was held.”

SRI R. SURYANARAYANA RAO:—“Are the Government prepared to deny that certain persons were associated in a kind of informal enquiry at least when the Hon. Chief Minister enquired into the conduct of the Ministers?”

THE HON. DR. T. S. S. RAJAN:—“No, Sir.”

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JANAB ABDUL LATIF FAROOKHI :—" May I know whether the Government propose to hold any enquiry, Sir? "

THE HON. DR. T. S. S. RAJAN :—" No, Sir."

Issue of Press Notes and Communiqués by the Director of Information and Publicity.

* 2 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Public Works be pleased to state—

(a) whether the Government have perused the judgment of the High Court in the Contempt of Court proceedings in which the Director of Information and Publicity was involved;

(b) what the procedure adopted is in regard to issue of Press Notes and Communiqués by the Director of Information and Publicity;

(c) whether the Director of Information and Publicity is entitled to exercise his discretion either in issuing or withholding publication of the Press Notes and Communiqués prepared by the Departments of the Government; and

(d) whether, in view of the remarks of the Hon. Judges of the High Court in the Contempt of Court proceedings referred to, the Government propose to devise ways to secure immunity to the Director of Information and Publicity in respect of Press Notes prepared by other Departments of Government?

THE HON. SRI M. BHAKTAVATSALAM :—" (a) Yes.

" (b) Press Communiqués and Press Notes are drafted by Departments of the Secretariat and are issued by the Director of Information and Publicity after they are approved in circulation to the concerned Hon. Minister, Hon. Minister for Public Works, and Hon. Chief Minister. Secretaries to Government are responsible for the contents of Press Communiqués and Press Notes and the Director of Information and Publicity is responsible for the manner of presentation of the information.

" (c) No.

" (d) The suggestion is being examined."

SRI R. SURYANARAYANA RAO :—" Sir, in view of the judgment of the High Court, will the Director of Publicity be allowed to use his discretion to withhold a portion or the whole of the Communiqué if he finds it is not in public interest and he will be coming within the ambit of law if such a publication is made? "

THE HON. SRI M. BHAKTAVATSALAM :—" The Director of Publicity will have that discretion and he will exercise that discretion in consultation with the Department and the Hon. Minister concerned."

SRI R. SURYANARAYANA RAO :—" May I know, whether in this present case such a discretion was exercised? "

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THE HON. SRI M. BHAKTAVATSALAM :—" Here, however, the Director of Information was not aware of the proceedings and therefore there was no occasion for him to exercise that discretion."

SRI R. SURYANARAYANA RAO :—" Sir, in a serious matter like this where an officer of the Government, the head of a department, is practically held guilty of contempt of court, will the Government see that the Director of Publicity is given the discretion or else let the Department themselves undertake to publish it, instead of making the Director of Publicity a scape-goat? "

THE HON. SRI M. BHAKTAVATSALAM :—" I have already said that the situation arising out of this judgment is under examination."

SRI R. SURYANARAYANA RAO :—" Is the Director of Publicity now competent to consult the Legal Department if he finds that any Press Communiqué or Press Note prepared by any department, in his opinion, infringes the law? "

THE HON. SRI M. BHAKTAVATSALAM :—" Certainly, Sir."

Appointment of Honorary Magistrates.

* 3 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Education be pleased to state—

(a) what the procedure adopted in regard to the appointment of Honorary Magistrates of all classes in the City and the State was;

(b) whether there has recently been any change in the system and if so, what it is; and

(c) whether in the districts where the separation of the Judiciary from the Executive has been effected, the Collectors continue to be the recommending authorities?

THE HON. SRI K. MADHAVA MENON :—" (a) The procedure adopted in regard to the selection of persons for appointment as Honorary Magistrates prior to July 1949 is indicated in the appendix extracted from the relevant Government Orders.

" (b) The following changes have been made in the procedure :—
City—

(1) the Mayor of Madras is not a member of the selection committee.

(2) There is only one Member of the Legislature on the committee instead of one M.L.A. and one M.L.C.

(3) A non-official member has been included in the selection committee.

Mufassal—A non-official member has been included in the selection committee.

" (c) The answer is in the affirmative.

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City.

When vacancies arise, the Collector of Madras and the Chief Presidency Magistrate will prepare a list of suitable persons. This list should be placed before a selection committee consisting of—

- (1) the Collector of Madras,
- (2) the Chief Presidency Magistrate,
- (3) the Commissioner of Police,
- (4) the Mayor of Madras,
- (5) one member of the Legislative Assembly to be nominated by the Government, and
- (6) one member of the Legislative Council to be nominated by the Government.

The Committee will consider the names in the list and may suggest other persons whom it considers suitable. The Collector of Madras, the Chief Presidency Magistrate and the Commissioner of Police will consider the committee's views and draw up, for the consideration of Government, a list of those persons who, in their opinion, are suitable for appointment or re-appointment, in order of preference if they wish to do so.

Mufussal.

When vacancies arise, a selection committee consisting of the Subdivisional Magistrate, the Assistant or Deputy Superintendent of Police, or, in areas under his direct charge, the District Superintendent of Police and one member of the Legislative Assembly or Council to be nominated by the Government will, either at a meeting or in circulation, prepare a list of suitable persons; the Subdivisional Magistrate will submit the list to the District Magistrate with his own remarks, and the District Magistrate will recommend to Government one or more persons whom he considers suitable from the list; he is at liberty to recommend any persons who do not appear in the list but are, within his own knowledge suitable.

The procedure in the preceding paragraph will not apply to the appointment of honorary magistrates sitting singly which is a matter for the District Magistrate himself.

This is the old rule, Sir."

SRI R. SURYANARAYANA RAO :—" The Hon. Minister says that it is the old rule, but the present rule is . . . "

THE HON. SRI K. MADHAVA MENON :—" I also said that in the City the Mayor of Madras is not a member of the selection committee and in the mufassal, a non-official member has been included in the selection committee."

SRI R. SURYANARAYANA RAO :—" What is the circumstance that necessitated this change in the composition of the committee of selection? "

THE HON. SRI K. MADHAVA MENON :—" The committee was found too unwieldy."

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SRI R. SURYANARAYANA RAO :—" Does the presence of a Member of the Legislative Council and of the Legislative Assembly, make the committee unwieldy in the opinion of the Government? "

THE HON. SRI K. MADHAVA MENON :—" Even under the old rule in regard to the mufassal there was only one member of the Legislative Assembly or of the Legislative Council. We did not want to make any difference in the City or in the mufassal in regard to this matter."

SRI R. SURYANARAYANA RAO :—" Sir, what was the necessity to nominate an outsider to be a member of the committee, instead of a Member of the Legislature? "

THE HON. SRI K. MADHAVA MENON :—" There is a Member of the Legislature and there is also a non-official gentleman who is not a member of the Legislature in the present Committee."

SRI R. SURYANARAYANA RAO :—" Why has the Legislative Council been deprived of representation under the new rule? "

THE HON. SRI K. MADHAVA MENON :—" No, Sir, it can be a member of the Legislative Council or the Legislative Assembly. In many cases members of the Legislature have also been nominated."

SRI R. SURYANARAYANA RAO :—" In view of the fact that it is the District Magistrate that is responsible for the proper conduct of cases before these honorary magistrates, what is the necessity to take away the discretion of the District Magistrate in recommending persons either before or now? "

THE HON. SRI K. MADHAVA MENON :—" I do not know whether the hon. Member refers to clause (c) of the question."

SRI R. SURYANARAYANA RAO :—" I mean in general."

THE HON. SRI K. MADHAVA MENON :—" These committees are only recommendatory committees. The District Magistrate sends the proceedings of the committee with his own recommendation where he approves or makes alternative suggestions."

SRI R. SURYANARAYANA RAO :—" Sir, in regard to the answer to clause (c) may I take it that in districts where the separation of the judiciary from the executive has taken place, the Collectors continue to be the recommending authority without these selection committees? "

THE HON. SRI K. MADHAVA MENON :—" No, there the Collectors continue to be the recommendatory authority in consultation with the selection committees."

JANAB ABDUL LATIF FAROOKHI :—" May I know, Sir, what are the directions that have been given by the Government for the selection of honorary magistrates, either in the City or in the mufassal? "

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THE HON. SRI K. MADHAVA MENON :—" No directions at all. They have to select proper persons who in their opinion are qualified by their honesty, integrity and reputation."

JANAB ABDUL LATIF FAROOKHI :—" Can officials who are still in office and are on leave preparatory to retirement, be nominated as honorary magistrates before their term of office expires? "

THE HON. SRI K. MADHAVA MENON :—" If the hon. Member means those who are in Government service, they cannot be, Sir."

JANAB ABDUL LATIF FAROOKHI :—" Will the Government enquire into cases of persons who are about to retire and who have been appointed or nominated as honorary magistrates? "

THE HON. SRI K. MADHAVA MENON :—" I think I can say with certainty that no person in service who is drawing pay from the Government can be appointed as an honorary magistrate and if any person has been appointed from a date on which he may retire, then he cannot be considered as having been appointed before retirement."

SRI R. SURYANARAYANA RAO :—" May I know whether these selection committees invite applications or the Chief Presidency Magistrate or the District Magistrates invite applications? "

THE HON. SRI K. MADHAVA MENON :—" Certainly I know they do not advertise, but I know a number of applications come to the Government and such applications must have also been sent to these selection committees."

JANAB ABDUL LATIF FAROOKHI :—" Can an official who is still in office be appointed as an honorary magistrate from a particular date after his retirement? Can such appointments be made while a person is still in Government service? "

THE HON. SRI K. MADHAVA MENON :—" An official can be appointed, for instance, in many cases sub-registrars and sub-magistrates are the presidents of bench courts. The president of such courts is appointed by the Collector and he can be an official."

JANAB ABDUL LATIF FAROOKHI :—" From the term 'honorary magistrates' generally people understand that it means, people who are not in Government service. So, can people who are in Government service be appointed as honorary magistrates? "

THE HON. SRI K. MADHAVA MENON :—" As every one knows, persons who do not get any remuneration for the work they do as magistrates are called honorary magistrates. As I said, Government servants who are in service can be presidents of bench courts and it is a matter known to hon. Members that in the mufassal sub-magistrates or sub-registrars in certain cases are presidents of bench courts."

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SRI R. SURYANARAYANA RAO :—" Why did the Government think it necessary to omit the Mayor of Madras, the first citizen of the City, from the selection committee? "

THE HON. SRI K. MADHAVA MENON :—" We did not want the Mayor to be entangled in the various applications that may come and in the recommendations in regard to these matters. Again, the Corporation is one of the bodies which sends the largest amount of work to bench courts and it was thought better that the Mayor was not made a party for the selection of persons who are to sit in judgment and decide those matters."

MRS. M. N. CLUBWALA :—" Will the Hon. Minister be pleased to enquire into the unfair propaganda carried on against juvenile courts magistrates and if so, what steps he proposes to take to redeem the honour of the juvenile court magistrates who, as far as I know, are not being treated fairly? "

MR. CHAIRMAN :—" I do not know whether the Hon. Minister will be prepared to answer the question."

THE HON. SRI K. MADHAVA MENON :—" There is no unfair comment so far as I know about these juvenile courts. But, I can say, they are now doing splendid work and it will be in the interests of everybody if the hon. Member herself tries to do propaganda against false rumours."

MRS. M. N. CLUBWALA :—" I beg your pardon, Sir. It 11-15
was in papers and the Hon. Minister might have read it. Already a.m.
there was a deputation to the Chief Presidency Magistrate expressing our resentment at the great deal of unfair propaganda which, we can prove, is being carried on by people who have no idea of the work the juvenile court magistrates are turning out? "

THE HON. SRI K. MADHAVA MENON :—" Unfair propaganda is going on not only regarding the good work of the juvenile court magistrates but many others who have good work to their credit."

SRI R. SURYANARAYANA RAO :—" May I know, Sir, if the committee is also selecting juvenile court magistrates? "

THE HON. SRI K. MADHAVA MENON :—" Yes, Sir. They are also honorary magistrates and the presidency magistrate allots them to the juvenile court."

Starting of Fruit Farms attached to each Research Station.

* 4 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Agriculture be pleased to state—

(a) whether the proposal to start fruit farms attached to each Research Station has been given effect to; and

(b) if the answer to (a) is in the affirmative, what the Research Stations are where fruit farms have been started and when such farms can be expected to come into existence in the remaining Research Stations?

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THE HON. SRI A. B. SHETTY :—“(a) & (b) It is presumed the hon. Member refers to the fruit farms ordered to be started during 1948–49 at the following Agricultural Research Stations :—

- (1) Siruguppa, Bellary district.
- (2) Tirurkuppam, Chingleput district.
- (3) Tindivanam, South Arcot district.
- (4) Palur, South Arcot district.
- (5) Aduthurai, Tanjore district.
- (6) Gudiyatham, North Arcot district.
- (7) Pattambi, Malabar district.

The scheme was not actually started. After the sites were selected for the proposed farms, the possible value of those small centres in influencing the fruit cultivation was re-examined by the Director of Agriculture and it has been found that ideal sites and soils were not available at the Agricultural Research Stations and that the purpose in view would be better served by the establishment of model orchard-cum-nurseries in different centres of the State. A scheme for starting model orchard-cum-nurseries at Rajahmundry, Mathurai, Mangalore, Salem and Chittoor has since been sanctioned by Government in March 1950. The establishment of fruit farms at the Agricultural Research Stations mentioned above has therefore been abandoned.”

Provincial Town-Planning Committee.

* 5 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Health be pleased to state whether the Government have considered the recommendations of the Provincial Town-Planning Committee and if so, what the action proposed on the various recommendations is?

THE HON. DR. T. S. S. RAJAN :—“The Government have examined the recommendations of the Provincial Town-Planning Enquiry Committee and have passed orders on them. A copy of a G.O. No. 1097, Health, dated 25th March 1950 is laid on the table of the House.”

The Madras Central Land Mortgage Bank.

* 6 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Local Administration be pleased to state—

(a) the rates at which the Madras Central Land Mortgage Bank has been floating their debentures recently;

(b) the rates at which loans are made available by the Central Land Mortgage Bank to Primary Land Mortgage Banks;

(c) the rates charged to the ultimate borrower by the Primary Land Mortgage Banks;

(d) the rate at which loans are granted by Government under the Agriculturists' Loans Act, and the Land Improvement Loans Act; and

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(e) whether the Government have at any time considered the suggestion to subsidise the Land Mortgage Banks to the extent of the difference between the economic rate of interest on loans chargeable by them and the rate of interest at which individual agriculturists can obtain loans from the Government?

THE HON. SRI K. CHANDRAMOULI :—“(a) 3 per cent.

“(b) $4\frac{1}{2}$ per cent.

“(c) $5\frac{1}{2}$ per cent.

“(d) $4\frac{1}{2}$ per cent (provisional).

“(e) The Government have not considered the suggestion referred to in the question.”

[Hon. Minister read replies (a) to (d) and the first sentence of (e).]

MR. CHAIRMAN :—“There is yet a lot more in the answer.”

SRI R. SURYANARAYANA RAO :—“If the answer furnished to you, Sir, is more than what the Hon. Minister has read out to the House, I think, Sir, we have every right to ask him to read out the whole thing.”

THE HON. SRI K. CHANDRAMOULI :—“If a supplementary question is raised, I shall answer it. The other things, Sir, I submit are not relevant to the question.”

MR. CHAIRMAN :—“Then, why did you give it to me; you ought not to have given it to me. In so far as it has been given, it must be read.”

THE HON. SRI K. CHANDRAMOULI :—“I have no objection.”

MR. CHAIRMAN :—“Then please do.”

THE HON. SRI K. CHANDRAMOULI :—“But the rate of interest charged by land mortgage banks depends on the rate of interest at which the Madras Co-operative Central Land Mortgage Bank, Limited, is able to float debentures among the public. A margin of $2\frac{1}{2}$ per cent between the rate of interest paid on debentures and the rate of interest charged to the ultimate borrowers has got to be maintained to meet the requirements of the Central and the primary land mortgage banks. With a view to providing cheap long-term credit to the agriculturists in the Rayalaseema, the Government are subsidizing the Madras Co-operative Central Land Mortgage Bank, Limited, at $1\frac{1}{2}$ per cent on all loans to be issued by it during the next five years in that area for the full period of 20 years during which the loans are repayable so that the ultimate borrowers may get their loans at 4 per cent, instead of at $5\frac{1}{2}$ per cent. The total subsidy payable on this account is estimated at Rs. 6.75 lakhs spread over a period of 24 years.”

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SRI R. SURYANARAYANA RAO :—“ In view of the disparity which exists between the rate at which the Government give to the ryots under the Agriculturists' Loans Act and the Land improvements Loans Act on the one hand and the Primary Land Mortgage Bank on the other, may I know, Sir, why the Government have not considered the question of treating the difference, in order to give assistance to the ryots, as a subsidy in the case of places other than Rayalaseema? ”

THE HON. SRI K. CHANDRAMOULI :—“ Because of the backwardness of the Rayalaseema area the question has been taken up and it is in the initial stages and the hon. Member knows that the Government have made very good beginning now and it may be extended to other areas as and when financial position and other circumstances are favourable.”

SRI R. SURYANARAYANA RAO :—“ The Hon. Minister for Local Administration announced somewhere that they are going to make a representation to the Government of India to make good the difference between the lending rate of the Primary Land Mortgage Bank and the rate at which the Government gives loans? ”

THE HON. SRI K. CHANDRAMOULI :—“ I have previously represented to the India Government.”

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—MESSAGE FROM THE ASSEMBLY.

MR. CHAIRMAN :—“ I have to announce to the House that Messages have been received from the Hon. Speaker of the Madras Legislative Assembly, transmitting copies of the following Bills as passed by the Assembly in accordance with Rule 99 of the Madras Legislative Assembly Rules on the 5th August 1950 and signed by him for the concurrence of the Council :—

(1) The Madras Weights and Measures (Amendment) Bill, 1950 (L.A. Bill No. 13 of 1950);

(2) The Dangerous Drugs (Madras Amendment) Bill, 1950 (L.A. Bill No. 14 of 1950);

(3) The Andhra University (Amendment) Bill, 1950 (L.A. Bill No. 16 of 1950); and

(4) The Indian Criminal Law (Madras Amendment) Bill, 1950 (L.A. Bill No. 17 of 1950).

A copy of the Legal Practitioners (Madras Amendment) Bill, 1950 (L.A. Bill No. 15 of 1950), as passed by the Assembly and transmitted to the Council for their consideration with a certificate from the Speaker that the Bill is a money Bill.

“ I have also received a Message from the Hon. the Speaker transmitting a copy of the motion passed by the Assembly desiring to obtain the concurrence of the Council in setting up a Joint

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[Mr. Chairman]

Select Committee of the two Houses to consider the Madras Buildings (Lease and Rent Control) Second Amendment Bill, 1950 (L.A. Bill No. 18 of 1950) and that the following members of the Assembly be nominated as members of the Joint Select Committee—

(1) The Hon. Sri N. Sanjeeva Reddi.

(2) Sri K. R. Karanth.

(3) „ K. Bhashyam.

(4) „ K. T. Kosalram.

(5) Janab Abdul Hameed Khan.

(6) „ Muhammad Raza Khan.”

III.—STATEMENT *RE* PROVISION OF ONLY ONE MEMBER TO THE SOUTH INDIAN RAILWAY LOCAL ADVISORY COMMITTEE.

THE HON. DR. T. S. S. RAJAN :—“ Sir, under the provisions of the Constitution of the South Indian Railway Local Advisory Committee, two seats were allotted to the Madras Legislature, one for the representative of the Madras Legislative Assembly and the other for the representative of the Legislative Council. Accordingly Sri L. S. Karayalar, M.L.A. and Sri S. B. Adityan, M.L.C., were elected to represent the Madras Legislature for a period of two years from 1st November 1949. The Government of India have now decided to reduce the number elected and sent by the Madras Legislature from two to one in order to give representation to the Travancore-Cochin State Legislature on the Committee and to constitute a new Committee on that basis from the 1st June 1950. With reference to this decision of the Government of India, the General Manager of the South Indian Railway requested this Government to communicate to him the name of a member to represent the Legislature on the new Committee. The Government have decided that this representative should be from the Assembly and that Sri L. S. Karayalar may continue to hold office for the term for which he was elected originally by the Assembly.

“ This is what I have to inform the House. As far as this House is concerned, the representation goes and only one member has to be given by the Assembly and that is retained by Sri L. S. Karayalar, M.L.A.”

JANAB ABDUL LATIF FAROOKHI :—“ Is that to be taken to mean that this House loses representation for all time? ”

THE HON. DR. T. S. S. RAJAN :—“ There is no such thing as that, Sir. There is only one member given for the two Houses of Legislature; the Assembly is the bigger House and already one member of it continues to be there. This House for the time has no representative of its own there but the Legislature is represented by one member, namely, Sri L. S. Karayalar.”

JANAB ABDUL LATIF FAROOKHI :—“ May I make a suggestion to the Hon. the Leader of the House for the consideration of the Government that alternate chances should be given to this House? ”

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THE HON. DR. T. S. S. RAJAN :—“ That will certainly be considered when the term of Mr. Karayalar is over.”

MR. CHAIRMAN :—“ And perhaps most of us will not be here in the Council then.”

IV.—ELECTION OF A MEMBER TO THE MADRAS PROVINCIAL LIBRARY COMMITTEE.

THE HON. SRI K. MADHAVA MENON :—“ Mr. Chairman, Sir, I move—

‘ That in pursuance of rule 2 (1)(v) of the Madras Public Libraries Rules, 1950, this Council do proceed on a date to be fixed by the Hon. the Chairman to elect one person to the Provincial Library Committee constituted under section 3 of the Madras Public Libraries Act, 1948 (Madras Act XXIV of 1948) .’”

MR. CHAIRMAN :—“ The question is—

‘ That in pursuance of rule 2 (1) (v) of the Madras Public Libraries Rules, 1950, this Council do proceed on a date to be fixed by the Hon. the Chairman to elect one person to the Provincial Library Committee constituted under section 3 of the Madras Public Libraries Act, 1948 (Madras Act XXIV of 1948) .’”

The motion was carried.

MR. CHAIRMAN :—“ With reference to the motion of the Hon. Minister for Education and Law regarding the election of one Member of this Council to the Provincial Library Committee, I am to state that the nomination should be handed over to the Secretary before 12 noon on Tuesday, the 8th August 1950. The nomination forms can be obtained from the Secretary.”

“ There will be an election, between 3 and 5 p.m. on the same day, if the number of candidates nominated exceeds one. The election will be by the ordinary method and not according to the method of single transferable vote.”

V.—GOVERNMENT BILLS.

(1) THE MADRAS WEIGHTS AND MEASURES (AMENDMENT) BILL ^a,
1950 (L.A. BILL NO. 13 OF 1950).

* THE HON. SRI A. B. SHETTY :—“ Mr. Chairman, Sir, I move—

‘ That the Madras Weights and Measures (Amendment) Bill, 1950, as passed by the Assembly, be taken into consideration.’

“ The need for this amending Bill has been explained in the Statement of Objects and Reasons. The Southern India Chamber of Commerce has represented to the Government that the entire

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business in gold and silver in South India is done only in 'Pagoda' weights and that great hardship would be caused to the jewellery trade in this part of the country on account of the non-inclusion of the 'Pagoda' weight in the schedule to the Madras Weights and Measures Act, 1948. The Chamber has requested that the Madras Act should be amended so as to include the 'Pagoda' as a recognized weight. But this cannot be done. The establishment of standards of weight and measure is a subject in the Union list. The standard weights specified in the Standards of Weight Act, 1939 of the Central Government and their integral multiples or sub-multiples alone can be recognized weights for the purposes of the Madras Act. Pagoda cannot be regarded as a standard weight as it is not an integral multiple or sub-multiple of any of the standard weights mentioned in the Central Act. It is considered desirable to allow some time for the trade to change over to the new weights in Tola. This Bill, therefore, seeks to amend sections 8, 9 and 20 of the 1948 Act with a view to exempt the use of the Pagoda weight from the penal provisions of the Act for a period of two years from the date of notification of the enforcement of the 1948 Act."

MR. CHAIRMAN :—" The motion is—

' That the Madras Weights and Measures (Amendment) Bill, 1950 (L.A. Bill No. 13 of 1950), as passed by the Assembly, be taken into consideration '."

11-30

a.m.

* SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, I do not understand why the Hon. Minister for Agriculture thinks that we have no power to effect the change requested by the South Indian Chamber of Commerce. Sir, we are now amending the Madras Weights and Measures Act, and so, cannot we have the power to effect the change that is asked for? That is my point. Sir, I looked into the lists in the Constitution Act. It is true, Sir, in the Union List, No. 50 is Establishment of standards of weights and measures. But, Sir, there is also in the State List No. 29. Weights and measures except establishment of standards. I am not aware why we cannot accept the request of the South Indian Chamber of Commerce for the amendment of the Madras Weights and Measures Act and introduce the local weight that is being used in the State. How we will be violating the powers of the Union Government I am not able to understand. In that case, Sir, the whole of the Madras Weights and Measures Act becomes null and void."

THE HON. SRI K. MADHAVA MENON :—" My friend, Mr. Suryanarayana Rao is under a misapprehension. There is already an Act passed by the Central Legislature called Standard of Weights and Measures Act, in which the Central Government have fixed certain weights and measures. Of course the Local Government have power to regulate the weights and measures; but they have to use the standards fixed in the Central Act, and they have no power to give exemption with regard to certain weights and

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measures. And that is why the Hon. Minister for Agriculture has said that the request of the South Indian Chamber of Commerce cannot be conceded."

* SRI R. SURYANARAYANA RAO :—" If perhaps the Local Government think that they have no power or are not competent to make this change, may I ask them why they give only two years' time? Is it their intention to approach the Government of India to recognize this pagoda as a weight to be included in their Act? "

MR. CHAIRMAN :—" I do not think it is the idea of the South Indian Chamber of Commerce to make the pagoda a weight. They want only the pagoda to be continued as a weight in Madras."

THE HON. SRI K. MADHAVA MENON :—" It is not a standard weight. We can only have a weight as a standard that is mentioned in the Central Act."

MR. CHAIRMAN :—" But we have been accustomed to a weight for a long time. So that too can be equally a standard weight. What is the objection? "

THE HON. SRI K. MADHAVA MENON :—" No transaction can be done except according to the standard weight mentioned in the Central Act."

* SRI R. SURYANARAYANA RAO :—" May I ask, Sir, is it the intention of the Madras Government to approach the Central Government to make a change in their Act, or is it their idea that within two years, our province must get used to the standard weight mentioned in the Central Act. Sir, for centuries, pagoda has been used as a weight in the case of bullion, and so, how is it possible within two years for people to switch over. I am sure the South Indian Chamber of Commerce will not be satisfied with this two years' limit. I would like pagoda to be recognized as a permanent weight in regard to dealings in silver and gold. I do not know whether this organization representing trade and commerce were invited to express their opinion on this two years' limit whether they will be satisfied with it for the time being. I wish Government—I thank the Hon. Minister for Law for having explained to us the legal position in the matter—assure this House that they intend approaching the Central Government to include pagoda as a standard weight."

* THE HON. SRI A. B. SHETTY :—" The Government of India have already been requested to take steps to recognise pagoda as a standard weight, but they are not inclined to accept the proposal. So far as the period allowed to give exemption to the use of pagoda is concerned, it was first proposed to give a period of five years, but then it was considered that two years would be sufficient for the trade to change over to the new weight. That is why two years' period has been fixed. Sir, I have already explained why it is not possible for us to make pagoda a recognized

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weight; for, the establishment of standard weight and measure is a matter for the Central Government. So I hope this House will accept the amendments proposed in the Bill."

MR. CHAIRMAN :—" Has the Hon. Minister for Agriculture got a copy of the Weights and Measures Act with him."

THE HON. SRI A. B. SHETTY :—" Yes."

MR. CHAIRMAN :—" May I request him to read section 8? "

THE HON. SRI A. B. SHETTY :—" 8. If an Inspector has reason to believe that any weight or measure—

(a) is not a recognised weight or measure which has been stamped as required by section 5, or

(b) is a recognised weight or measure which is incorrect, the Inspector shall seize it and produce it before a Magistrate who shall, if he finds that the weight or measure is not a recognised weight or measure or that it is incorrect, order it to be forfeited to His Majesty or destroyed."

MR. CHAIRMAN :—" Is a recognized weight defined? "

THE HON. SRI A. B. SHETTY :—" The weights are given in the schedule."

THE HON. SRI K. MADHAVA MENON :—" Recognized weight is the weight mentioned in the Standard Weights and Measures Act."

MR. CHAIRMAN :—" Yes, that is what I want to know."

THE HON. SRI K. MADHAVA MENON :—" Section 2 (3) defines what a recognized weight or measure is, and what those recognized weights and measures are is given in section 3."

MR. CHAIRMAN :—" Yes, that is alright. The question is—

'That the Madras Weights and Measures (Amendment) Bill, 1950 (L.A. Bill No. 13 of 1950), as passed by the Assembly, be taken into consideration '."

The motion was carried.

Clause 2 was put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

THE HON. SRI A. B. SHETTY :—" Sir, I move—

'That the Madras Weights and Measures (Amendment) Bill, 1950 (L.A. Bill No. 13 of 1950), as passed by the Assembly, be passed into law '."

The motion was put and carried and the Bill was passed into law.

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(2) THE DANGEROUS DRUGS (MADRAS AMENDMENT) BILL^a, 1950
(L.A. BILL NO. 14 OF 1950).

THE HON. SRI N. SANJEEVA REDDI :—" Mr. Chairman, Sir, I beg to move—

' That the Dangerous Drugs (Madras Amendment) Bill, 1950 (L.A. Bill No. 14 of 1950), as passed by the Assembly, be taken into consideration.'

" Sir, this is a very simple amendment, which authorises the Prohibition Department authorities to investigate into offences under this Act. Hitherto they had the authority as excise officers. But now, their name is changed from Excise to Prohibition Officers. Hence this amending Bill is necessitated."

MR. CHAIRMAN :—" The question is—

' That the Dangerous Drugs (Madras Amendment) Bill, 1950 (L.A. Bill No. 14 of 1950), as passed by the Assembly, be taken into consideration.'

The motion was carried.

Clause 2 was put and carried.

Clause 1 was put and carried.

The preamble was put and carried.

THE HON. SRI N. SANJEEVA REDDI :—" Sir, I move—

' That the Dangerous Drugs (Madras Amendment) Bill, 1950 (L.A. Bill No. 14 of 1950), as passed by the Assembly, be passed into law.'

The motion was put and carried and the Bill was passed into law.

(3) THE ANDHRA UNIVERSITY (AMENDMENT) BILL^b, 1950 (L.A. BILL NO. 16 OF 1950).

THE HON. SRI K. MADHAVA MENON :—" Mr. Chairman, Sir, I beg to move—

' That the Andhra University (Amendment) Bill, 1950 (L.A. Bill No. 16 of 1950), as passed by the Assembly be taken into consideration.'

" Sir, the Maharaja of Jeypore, who was the most munificent donor for that University, as pro-Chancellor, had the right to nominate one member to the Syndicate. In 1944, as he promised to contribute one lakh of rupees every year, in view of his munificent donation, the Senate unanimously recommended to Government that the Maharajah may be allowed to nominate two members to the Syndicate instead of one. So during the Advisers' regime, in 1944, an Act was passed which enabled him to nominate two

^a Printed as Appendix II on pages 159 infra.

^b Printed as Appendix III on page 160 infra.

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members instead of one. When the Advisers Act was re-enacted in 1948, the number of nominees of the Maharaja to the Syndicate was reduced from two to one. The Senate of the Andhra University has again unanimously recommended to restore the number to two in fairness to the Maharaja who has been and continues to be the biggest donor of the University. The Government think that there is much force in the unanimous recommendation of the Senate and have brought forward this Bill to restore the number of the Maharaja's nominees to the Syndicate to two." 11-45 a.m.

MR. CHAIRMAN :—" The question is—

' That the Andhra University (Amendment) Bill, 1950 (L.A. Bill No. 16 of 1950), as passed by the Assembly, be taken into consideration '."

The motion was carried.

Clauses 2 and 1 and the preamble were put and carried.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

' That the Bill be passed into law '."

MR. CHAIRMAN :—" The questions is—

' That the Andhra University (Amendment) Bill, 1950 (L.A. Bill No. 16 of 1950), as passed by the Assembly, be passed into law '."

The motion was carried.

(4) THE INDIAN CRIMINAL LAW (MADRAS) AMENDMENT BILL^a, 1950
(L.A. BILL NO. 17 OF 1950).

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

' That the Indian Criminal Law (Madras) Amendment Bill, 1950 (L.A. Bill No. 17 of 1950), as passed by the Assembly, be taken into consideration.'

" The Criminal Law Amendment Act was a much-hated Act during the time of the British regime. It was very sparingly used subsequent to the attainment of independence. Certain circumstances in the country necessitated the use of the Act. Hon. Members know that the Communist Party and the various organizations which owed allegiance to it were banned under the Act. One of the arrested persons moved in the Supreme Court that certain sections of the Criminal Law Amendment Act were *ultra vires* of the Fundamental Rights guaranteed in the Constitution of India. The Supreme Court did not give any decision, as the question raised there was disposed of on a technical ground. We examined whether any sections of the Act contravened or were inconsistent with the Constitution. Apart from the question whether they were inconsistent with the Constitution or not, the Government themselves felt it necessary to liberalize certain sections in the interests of natural justice. With that idea, we

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have proposed amendments to sections 15 and 16 of the Criminal Law Amendment Act. Under section 15 as it stands, the Government can declare an association to be unlawful on the basis of their mere opinion that it is indulging in subversive activities without mentioning the grounds for the declaration and the association has no right to question the order of the Government. The amendments that I propose are that the declaration of an association to be unlawful should be on specific grounds and those grounds must be specified in the order. The grounds on which an association could be declared unlawful are mentioned in Article 19 of the Constitution of India. The amendment to section 16 gives an opportunity to any member or other person interested in a notified association to make a representation against the issue of the notification. The case shall be reviewed by an Advisory Board consisting of three persons who are, or have been, or are qualified to be appointed as Judges of the High Court. The Advisory Board is entitled to call for any information on the matter from the Government and its decision shall be binding on the Government. These are the two amendments proposed. The other amendments are consequential. These amendments, in the words of a Member of the other House, make the provisions more humane than what they are now.

“The validity of certain sections of the Criminal Law Amendment Act has been questioned and the matter is pending before the Supreme Court. We wanted to make amendments so that any ambiguity or doubt about the matter may be settled. That is the object of the amendments.”

MR. CHAIRMAN :—“The motion is—

‘That the Indian Criminal Law (Madras) Amendment Bill, 1950 (L.A. Bill No. 17 of 1950), as passed by the Assembly, be taken into consideration.’”

* SRI R. SURYANARAYANA RAO :—“Mr. Chairman, Sir, I would like to have some information from the Hon. Minister for Law. In regard to the notification of an association as unlawful, it is proposed to submit the case to an advisory board that is to be created. But if a notification is issued in respect of any place, the aggrieved person is asked to go to a court. I cannot understand why this distinction is made between an association and a place.

“The proposed clause 16 (2) says—

‘Nothing in sub-section (1) shall require the State Government to disclose any facts which it considers to be against the public interest.’

At the same time clause 16 (1) says that the notification shall specify the ground on which it is issued. How can the ground be framed unless facts are put forward to show the circumstances under the notification had to be issued? The circumstances which necessitated the Government to notify an association or place should be clearly given. Otherwise it is unfair either for the advisory body or for the court to decide whether the notification is correct or not.

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I do not know how the Hon. Minister for Law proposes to distinguish between grounds and facts. To suppress facts which lead to the grounds specified is not fair. I do not know how the grounds can be framed without facts to support them."

THE HON. SRI K. MADHAVA MENON :—" The High Court judgment makes a distinction."

* SRI R. SURYANARAYANA RAO :—" I think the facts should be placed in fairness to the notified association or place so that the body entrusted with the task of giving a decision may be enabled to come to a proper judgment.

" While giving a privilege, the Government grudge to allow the person affected by a notification to appear before the advisory board either in person or through a lawyer under clause 16-A (5). What is the object in withholding this elementary privilege? It looks like giving a privilege with one hand and taking it away with the other. I do not know why we should fight shy of lawyers or why we should fight shy of the aggrieved party himself appearing before the advisory body and making representation. I do not think the Bill is so liberal as is claimed. I think it has been brought forward just to get over a possibility of the decision of the Supreme Court. This is not at all a generous gesture towards the notified bodies. I am not speaking in favour of unlawful associations. If there are unlawful associations, let them be declared unlawful. But let them be given an opportunity to say that they are not engaged in unlawful activities. This is possible only if the aggrieved person is allowed to appear and plead before the body which reviews the case either personally or through a lawyer.

" It is not quite clear whether the Government are going to submit to the advisory board all notifications including those in respect of which there is no representation and obtain its decision. If an association is declared unlawful, it is just possible that its members may go underground and they cannot make any representation at all. Even in those cases, will the Government be generous enough to place the notifications before the advisory board? "

THE HON. SRI K. MADHAVA MENON :—" They are bound to under clause 16-A."

SRI R. SURYANARAYANA RAO :—" It looks like that. Another point on which I would like to ask for information from the Government is this. When an association is declared unlawful, all its members become members of an unlawful association. They are liable to arrest unless they declare that they do not belong to the association. Will they be at liberty to make representations? Is it not a fact that during the War, when the Congress was declared an unlawful body, every member of the Congress was liable to arrest at any time? Where is the occasion or opportunity for a member of an unlawful association to make representation, as he would not like to be apprehended by the police? What I am pointing out is that the Government have

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introduced this Bill to get over some legal difficulty and not because they want to give an opportunity for defence to a notified associataion or place."

MR. CHAIRMAN :—" What is the hon. Member's point? "

* SRI R. SURYANARAYANA RAO :—" As soon as an association is declared unlawful, every member of it will go underground. If he is out, he is likely to be apprehended by the Police.

12 noon " Sir, an association, when once it has been declared unlawful, ceases to function and its members are either arrested and taken into custody or they go underground and very often they go underground. Then there are no members of the association at all, because, they would be in jails or would have gone underground. How could they make their representations before the advisory boards when they are underground? Under Section 16-A (3) the advisory board will consider all the materials placed before them and call for any information from the State Government, before submitting their report to the Government. The State Government will only place the grounds on which they have declared that association as unlawful and not place the facts before them."

MR. CHAIRMAN :—" The advisory board can call for any further information from the Government. Section 16-A (3) says—

— The advisory board shall, after considering the materials placed before it, and if necessary, after calling for such further information as it may deem fit from the State Government or from any office-bearer or member of the association concerned or any other person, submit its report to the State Government."

Therefore the advisory board can call for any information they want from the Government. What is the point of the hon. Member? Does he want that there should be a right of appeal to the party against the decision of the advisory board? "

SRI R. SURYANARAYANA RAO :—" What I am saying is, that the Government are trying to get over legal difficulties by providing an advisory board, and there too the Government will only place the grounds on which such a declaration was made and not the facts on which they have come to that decision. There is, as you know, Sir, vast difference between the term ' ground ' and ' facts '.

" Now, Sir, if you read section 16 (2) you will see that the State Government are not obliged to disclose any facts. It states—

— Nothing in sub-section (1) shall require the State Government to disclose any facts which it considers to be against the public interest to disclose."

" Again, Sir, the proceedings of the advisory board will be held only *in camera* and they are not subject to scrutiny in a regular court of law. Therefore, I submit the Government are not giving any special right or privilege to the person affected, whereas, in the other section, the Government have provided for the party to take the matter to a court of law, if the place had been notified as being used for the purposes of an unlawful association."

MR. CHAIRMAN :—" The hon. Member's point seems to be that the members of the association should, be enabled to go before

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a court of law, and the Government should place all the facts before the court, so as to enable the court to decide whether the Government were justified in declaring the association unlawful. Is it not?"

SRI R. SURYANARAYANA RAO :—" Yes, Sir."

THE HON. SRI K. MADHAVA MENON :—" Mr. Chairman, I am sorry, Sir, I did not explain the provisions of the Bill more fully even in my opening speech introducing the Bill in this House, because identically same points were raised by some of the members in the other House and I took it for granted that the replies which I had given to them there would have satisfied hon. Members of this House also. Sir, in the case of an association, we have clearly specified in clause 2 of this Bill, which is an amendment to Section 15 of the Criminal Law Amendment Act, what the ingredients are that go to make up an unlawful association. According to this section, an unlawful association means—

(a) an association which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts; or

(b) which has been declared by the State Government by notification to be unlawful on the ground that such association—

(i) constitutes a danger to the public peace, or

(ii) has interfered or interferes with the maintenance of public order or has interference for its object, or

(iii) has interfered or interferes with the administration of law or has such interference for its object.

Here, there is no question of properties involved. The question is, that if an association comes within any of the categories of offences, it will be declared unlawful.

" But section 17-A of this Act deals with places which are used by such associations for unlawful activities. In such cases, the question of property is involved. An unlawful association may have its own buildings and may have funds also. It is here that we have provided for any dispute being taken before a court of law."

MR. CHAIRMAN :—" It may be that the place may be owned by a different person, who may be unconnected with the unlawful association. Is he to appear before the court?"

THE HON. SRI K. MADHAVA MENON :—" It may be, Sir, that he has to go before a court in case of dispute. There may be civil disputes over the rights to that property, and that is why, Sir, provision has been made in clause 4 of this Bill for taking such disputes to the civil court. That is my explanation, Sir, so far as the difference between the place of an association and the members of the association is concerned. I am not sure whether my hon. Friend Mr. Suryanarayana Rao is satisfied with this explanation."

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MR. CHAIRMAN :—“ In clause 4, which deals with the place of an unlawful association, I think it is not even the association, but the real owner of the property, who may not be a member of that association at all, who will have to go before the court, is it not? ”

THE HON. SRI K. MADHAVA MENON :—“ That is the position, Sir, as I have already stated. Sometimes the place might belong to the association, but might have been leased out. Various points of dispute might arise over the question of place or property.

“ Then again, Sir, my hon. Friend Mr. Suryanarayana Rao wanted to know the difference between ‘ grounds ’ and ‘ facts ’ which are to be placed before the advisory board by the Government. He asked, why should the grounds alone be placed before the advisory board and not the facts leading to those grounds. Let me just give an example, Sir, showing the difference between these two. Suppose an association issues a circular to its members as to how to carry out an act of sabotage; suppose it gives directions how to pull out the railway lines, in order to derail a train at a particular place; or suppose it gives instructions to its members how to manufacture a country bomb. These detailed directions and instructions are facts and these cannot be revealed to the public or placed before the advisory board. Only the ground on which it is declared unlawful, namely, that it has issued a circular instructing its members to indulge in acts of sabotage in order to paralyse the railway administration, will be given to the association or office-bearer. Suppose, in this case, we give the entire circular with grounds, then it will be giving out the information to the public and it would be a source of public danger and people who do not know how to manufacture bombs or commit acts of sabotage, will learn to do such things. That is why we have said that the grounds based on such facts alone should be given. Sir, we have come across many instances like these, where circulars have been issued by Communist leaders to their friends as to the particular method of doing things. That is why we have made this discrimination between grounds and facts leading to such grounds. Sometimes, such facts may not be dangerous to public peace if placed before the board. In such cases, we have no objection to do so. At the same time, I may point out that under sub-section 16-A (3) it is open to the Advisory Board to ask us to give them any further facts on the basis of which, they have to submit their report to the State Government. That is why, we have said in sub-section (5) that ‘ Nothing in this section shall entitle any person to attend in person or to appear by any legal representative in any matter connected with the reference to the advisory board, and the proceedings of the advisory board and its report, excepting that part thereof in which its opinion or that of the majority of its members is specified, shall be confidential.’ There is no purpose in allowing lawyers to appear before the advisory board on behalf of the unlawful associations. Here we are not dealing with individuals, but with associations. As I said, the advisory board has got the right to call for further information if necessary. But in the case of

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individuals we have copied exactly the provision of the Preventive Detention Act of the Government of India which was passed in February 1950. Section 20 of that Act deals with the procedure of advisory boards and section 23 (3) says:—

‘Nothing in this section shall entitle any person against whom an order has been made to attend in person or to appear by any legal representative in any matter connected with reference to the advisory board and its report, except that part of the report on which the opinion of the advisory board is specified shall be confidential.’

In this Act, we have made the decision of the advisory board binding on the Government. I submit, Sir, that we have been generous enough in dealing with these unlawful associations, but if we want to be more generous, we should have no Criminal Law Amendment Act at all on the statute book. It is not our intention to be so generous as to do away with that Act. Sir, you may remember that even when Mahatma Gandhi was assassinated, and when subversive activities of certain communal parties were at their highest, we did not ban the Communist Party or any communal organization, but that it was only last year that we banned that party because of certain particular reasons. But, I must, however, admit, Sir, that this Act is somewhat drastic. But we have made it less drastic by these amendments. One hon. Member mentioned in the other House that we have humanized it by 80 per cent. But, as far as this Government is concerned, we have made it 100 per cent human and that is all that we can do under the circumstances.

“Sir, my hon. Friend, Mr. Suryanarayana Rao, asked me, ‘Suppose you declare an association to be an unlawful one, then, the members belonging to that association would either go underground or would be arrested and put in jails. How would the persons underground be able to make their representation before the advisory board.’ Sir, we are not concerned with the persons who had gone underground. But so far as the arrested persons are concerned, they are exactly on the same footing as any accused person in a criminal case. Suppose a man had committed theft. The case goes before the magistrate and he is given a chance to put forth his plea. Similarly, the affected body will be asked to put forth their plea before the advisory board. This is a cognizable offence and they will have every opportunity to have their say before the board. I do not see any particular difficulty in this matter at all.”

MR. CHAIRMAN :—“The question is—

‘That the Bill further to amend the Indian Criminal Law Amendment Act, 1908, in its application to the State of Madras (L.A. Bill No. 17 of 1950), as passed by the Legislative Assembly, be taken into consideration.’”

The motion was carried.

The Bill was taken up, clause by clause.

Clauses 2 to 6 were put separately and carried.

Clause 1 was put and carried.

The preamble was put and carried.

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THE HON. SRI K. MADHAVA MENON :—" Sir, I move—
' That the Bill be passed into law '."

MR. CHAIRMAN :—" The question is—

' That the Bill further to amend the Indian Criminal Law Amendment Act, 1908, in its application to the State of Madras, be passed into law '."

The motion was carried and the Bill was passed into law.

(5) THE MADRAS BUILDINGS (LEASE AND RENT CONTROL) SECOND AMENDMENT BILL, 1950 (L.A. BILL NO. 18 OF 1950).

THE HON. SRI N. SANJEEVA REDDI :—" Mr. Chairman, Sir, I beg to move—

' That this House concurs in setting up a Joint Select Committee of the two Houses consisting of nine Members (six Members from the Assembly and three Members from the Council) to consider the Madras Buildings (Lease and Rent Control) Second Amendment Bill, 1950, and that the following members of this House be nominated to the said Joint Select Committee :—

(1) The Hon. Sri K. Madhava Menon.

(2) Sri H. M. Jagannatham.

(3) Sri P. R. K. Sarma.'

" Sir, this Act has been in force for the last few years and we have been finding some practical difficulties in administering it and therefore we wanted to amend the Act and a Select Committee was constituted to go into the question and they suggested certain changes. But in the meanwhile, the High Court and the Federal Court judgments came invalidating the whole Act. Therefore the changes proposed by the Select Committee also became invalid and the whole work was rendered infructuous. Then we had to enact an ordinance in order to keep the Act in force. Now we feel some difficulties in administering the Act and so we have brought this Amending Bill and we have proposed to constitute a Select Committee of both Houses to go through it and suggest any changes, if necessary.

12-15 p.m. " To remedy those defects, we are now setting up a small Joint Select Committee so that we may go through all the amendments proposed previously, and also make changes wherever necessary. I have proposed the names of six Members from the Assembly and three Members from the Council. Sir, I move."

MR. CHAIRMAN :—" The question is—

' That this House concurs in setting up a Joint Select Committee of the two Houses consisting of nine Members (six Members from the Assembly and three Members from the Council) to consider the Madras Buildings (Lease and Rent Control) Second Amendment Bill, 1950, and that the following Members of this House be nominated to the said Joint Select Committee :—

(1) The Hon. Sri K. Madhava Menon.

(2) Sri H. M. Jagannatham.

(3) Sri P. R. K. Sarma.' "

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* DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Mr. Chairman, Sir, it is no doubt true that it is stated that this Act is to be extended for a period of one year. (Interruption.) Sir, the present Bill has made certain amendments which, in spite of repeated representations, has not taken into consideration the difficulties experienced by landlords. I am all for the protection of the tenant, and I am also quite in accord with the Government that where a landlord proves to be obnoxious or where he tries to interfere with the legitimate rights of tenants or where in certain cases, as in other cities, he gets an exorbitant amount by way of puggree or such indefensible payment, there should be no quarter given to such landlords. On the other hand, when we are trying to pass a measure of this kind”

MR. CHAIRMAN :—“ May I know what is the hon. Member's point? ”

* DR. A. LAKSHMANASWAMI MUDALIYAR :—“ My point is that before the Joint Select Committee takes into consideration this Bill, certain views expressed by hon. Members of this House should be placed before the Members of the Joint Select Committee. As far as I can see, the Joint Select Committee has been constituted in such a manner that I feel—I hope I am wrong—that it is not likely that a certain shade of opinion will receive the consideration that is due to it. I am not criticising the appointment of the Joint Select Committee, nor certainly the personnel of the Joint Select Committee. And I do not stand here as a representative of the landlords. But I claim that I can speak with an amount of authority as to what should be justice in every case. There has been a tendency, Sir, on the part of the Government in this and other States to take some measures which a certain section of the public, at any rate, are forced to confess, are expropriatory measures. I feel that in the matter of rent control also there have been certain expropriatory measures incorporated into this Act which will certainly go against the ordinary means of securing justice, whether it be to the tenant or to the landlord.

“ I refer only to a few of the points. This Act does not in any sense take note of the fact that there are poor landlords who know nothing of the Act itself even after it is passed, and who may not be in a position to comply with all the conditions that have been laid down in this Act. I say, for instance, that this Bill provides at present that the rent that may be demanded should be reduced to Rs. 15 for the compliance of all the provisions of this Act. Sir, if the Government were only to take a census of all those landlords or landladies who have houses which fetch only a rent of Rs. 15, they will find that it is the poor middle class, the widows who have been left without sustenance whatever, or orphans who can claim this particular privilege. The Government expect this class of people, who are in a large measure illiterate—thanks to the enlightened policy of the past, or of even the present Government to a certain extent—to know the rules that are published in the *Fort St. George Gazette*. How many

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people are able to get at the *Fort St. George Gazette*? Members of the Legislature get it. I happen to get it for the privilege of being a Member of the Legislature. The Government expect a landlord getting a rental of Rs. 15 to know the rules that are published in the *Fort St. George Gazette*, and be in a position to comply with all these rules.

“ Sub-section (3) of section 17 says—

‘(3) All rules made under this section shall be published in the *Fort St. George Gazette*, and upon such publication shall have effect as if enacted in this Act.’

Certain of the changes that have been contemplated are also changes which, in my opinion, are dominated by a spirit of expropriation. Let me take, for instance, the existing section 3 (2). It says—

‘If within a week of the receipt of a notice under sub-section (1) by the Controller, the State Government or any officer empowered by them in that behalf does not intimate to the landlord in writing that the building is required by them for any governmental purposes or for use by any public institution under Government control or any officer of the Government, the landlord shall be at liberty to lease the building to any tenant.’

The change contemplated is—

‘If, within ten days of the receipt by the authorized officer . . .’

(The authorized officer has nicely changed the week into ten days, so that he may have more time, and which I do not grudge.)

‘of a notice under sub-section (1) or sub-section (2), the State Government or the authorized officer does not intimate to the landlord in writing that the building is required for the purposes of the State . . .’

(It is not for ‘Governmental purposes’, a very elaborate expression which may mean anything or nothing.)

‘or of the Central Government or of any local authority or of any public institution under Government control or for the occupation of any officer of any such Government, the landlord shall be at liberty . . .’ and so on.

There are two things that have been interpolated in this particular clause. One is, as I said, ‘for the purpose of the State’ which is far more elaborate than ‘Governmental purposes’. Secondly, local bodies also have been included in the powers that will be vested in the Government to secure accommodation. Sir, I ask, what has the Government done since 1946 to ensure that more accommodation is available to its own Government servants. I am not asking them to look after the comforts of anybody else. The Government sits quiet and does not worry about it, and then says ‘we want accommodation for our Government servants, and, therefore, give us the premises that you have got’. Then, Sir, there is one other point that has to be taken into consideration. The relationship between the landlord and the tenant should be always happy. Here the Government becomes the tenant, and forces on the landlord any tenant whom he may be in a position to find suitable for the accommodation that is required of him though he is exceedingly unsuitable. All the time the impression has been created that the landlord is the villain

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of the piece. I am prepared to concede that he may be the villain of the piece, but I am not prepared to concede that there are not other villains of the piece too. Landlords are afraid of tenants who are influential persons. They take hold of this Act and use the house in a manner so prejudicial to the interests of the landlord that when they vacate it after a year or two, the amount of expenditure that the landlord has to meet to rehabilitate the house is considerable. I know of a particular landlady (a widow landlady) who let her house to the Government of India in the Military Department. It was taken by an officer. Without her knowledge another man was inducted into that house. It was an upstairs house. Not only was he inducted into that house, but the upstairs also was used as kitchen. I wrote a very strong protest to the Government of India officer concerned, and I am yet awaiting a reply as to what steps have been taken. A very sweet and reasonable letter came that the officer will enquire into the whole matter. It is six months now, and the landlady is powerless. When this tenant disappears conveniently, the Government of India is the tenant. We know the powers, whether it be of the Government of India or of the local Government, to make any reasonable compensation for the landlady.

“ Let me point out another case. I know of a case where the tenant came in with very sweet promises that he would certainly see that everything was done as desired by the landlord, in this case also it was a landlady. In this particular case, he wanted to make certain changes in the house. Without realizing what they are, the landlady gave her consent. The result of it was that he made extravagant changes in the whole house, spent Rs. 20,000 on the changes, and then stated that these changes were made in the interests of the landlady, and therefore this amount should be paid by the landlady. Or he was entitled to have the rent deducted from Rs. 20,000 that he had spent. The landlady had to go to the court of law and had to incur a great deal of expenditure, and after all that inconvenience did not receive a pie for several months as rent. The court finally said that she would get a compensation of Rs. 5,000.

“ Sir, the Government believe that the officers they set up as Controllers are persons with extraordinary capacity, extraordinary principles of justice and extraordinary methods of deciding the issue. The officer is a Revenue Divisional Officer, an Executive Engineer, and a District Judge, all combined into one. It is this super-excellent person that can discharge the duties of these three persons. He has to fix the fair rent. You and I, I venture to submit, know how difficult it is to fix what is fair rent. The officer sees the neighbouring building, and fixes the fair rent. This particular building may have all the amenities which the neighbouring building may not have although the accommodation may be exactly the same—may be paved with tiles, and it may have extraordinary comforts so far as the sanitary conveniences are concerned. In spite of that, the Rent Controller has got to fix the fair rent taking into consideration the fair rent in the

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neighbouring house. Can any one say that it will be possible for him so easily to fix fair rent? Very well; having fixed the fair rent, what does he do? Clause 5 (1) says—

‘When the fair rent of building has been fixed under this Act, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out at the landlord’s expense and if the building is then in the occupation of a tenant, at his request . . .’

I give you a case where sanitary conveniences are now asked by the Corporation to be provided for by the landlord. It may seem absurd but the case is relevant. The landlord says ‘I have to provide sanitary conveniences so that they may be of a permanent nature’. He undertakes certain measures to provide these conveniences. The tenant however says ‘I do not want these conveniences; I can manage without them.’ The clause says ‘. . . at his own request’. The sanitary conveniences may cost about Rs. 3,000 to Rs. 4,000 in the case of a building. The landlord has no right to enhance the rent if the tenant does not consent to it. That is the simple position.

“ Sub-clause (2) of clause 5 says—

‘Where, after the fair rent of a building has been fixed under this Act, there is a decrease or diminution in the accommodation or amenities provided, the tenant may claim a reduction in the fair rent as so fixed.’

I agree that if there is decrease in accommodation, and if the landlord cuts off a portion and tries to sub-let it, there should be reduction in rent. But who is to define the term ‘amenities’? I mean a building with a large number of little, nice flower pots. I got them and looked after them. The tenant comes and he thinks that he cannot afford to pour water to them. The whole thing is starved. They dry up. If it is considered then that reasonable amenities are not provided, or a subsequent tenant comes into that house, and says ‘these are the amenities that I expect’, what is to be done? The word ‘amenities’ lends itself to a great deal of divergence of opinion. What are the proper amenities to be provided? The meaning given in the dictionary for the word ‘amenities’ is far more complex than probably the Hon. Minister realizes. It is quite true that if amenities such as electric power supply or sanitary conveniences are cut off, there should be no question whatsoever that the landlord should be made to re-establish those amenities for the sake of the tenant. But I am suggesting that in an Act like this, unless the definition is much more specific, there are undoubtedly opportunities for a great deal of mischief to be done by the tenant.

“ Then again, Sir, there is a clause here which says—

‘Provided that where before the determination of the fair rent, rent has been paid in excess thereof, the refund or adjustment shall be limited to the amount paid in excess for a period of one year immediately before such determination.’

“ I think that is an improvement. Although it leads to a great deal of ill-feeling between the landlord and the tenant, it certainly is something which is a change for the better. In

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a Select Committee on a previous occasion a question arose in regard to the repairs that were to be carried out to a building. The old provision was that whatever might be the repairs that might be needed by the tenant, if they are approved by the Rent Controller, they must be carried out. I then stated that there was a limit fixed in the Bombay Act that the cost of such repairs should not exceed a month's rent of the building in a year. I am grateful that that particular provision has been incorporated in this Bill.

"As I said, what are the changes that are changes for the better, I must point out what the changes are that are for the worse. There is one new clause which says—

'If the tenant satisfies the Controller that the amenities were cut off or withheld with a view to compel him to vacate the building or to pay an enhanced rent, the Controller may pass an interim order, directing the landlord to restore the amenities immediately, pending the inquiry referred to in sub-section (3).'

This is a change for the worse. In the old Act it was put down as follows :—

'A tenant in occupation of a building may, if the landlord has contravened the provisions of this section, make an application to the Controller complaining of such contravention.

If the Controller on inquiry finds that the tenant has been in enjoyment of the amenities and that they were cut off or withheld by the landlord without just or sufficient cause, he shall make an order directing the landlord to restore such amenities.'

These are the provisions under the old Act. The present Act gives the power to the Controller without any inquiry, without even asking the landlord to come and pay homage to the gentleman and without listening to him, summarily to order that such and such a thing should be done. Do you realize what it means? A tenant may come and say that some amenities were cut off and it may be due to a fault of his own. I know of a particular case where the tenant who did not even know how to use the sanitary conveniences, used them for other purposes; the whole thing was clogged and the whole of the sanitary fittings right up to the outlet had to be repaired. The tenant may come and say, 'My amenities have been cut off.' The Controller does not want to enquire into the matter. Summarily he passes an order. As I said, he is a trinity in himself—the divisional officer, the District Judge and the executive engineer—sitting in his chair somewhere surrounded with so many other duties that the Government are now every day imposing upon him reposing superabundant confidence in his super-natural virtues and powers. This gentleman is the gentleman to decide without any question whatsoever . . ."

MR. CHAIRMAN :—"It is only for a temporary period until the enquiry is completed. This is only an interim order."

* DR. A. LAKSHMANASWAMI MUDALIYAR :—"But the order is made. The inquiry may take three months.

"Then again, the Explanation is more interesting. 'An interim order may be passed under this sub-section without

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giving notice to the landlord.' I hope that does not mean that even the order is not to be given notice of to the landlord. I hope it only means that without giving any notice to the landlord, he can pass an interim order which should be communicated to the landlord."

MR. CHAIRMAN :—" I have seen a similar provision in the Civil Procedure Code. Perhaps this provision follows it."

* DR. A. LAKSHMANASWAMI MUDALIYAR :—" I am sorry I am not so familiar with that Code. I am trying to learn a good deal but my education is very incomplete. The Bills are coming in such rapid succession that I have not got the time honestly to study them. I plead guilty to that charge.

" Then again, it is put down here, ' The Controller may in his discretion direct that compensation not exceeding fifty rupees be paid . . . ' I do not mind that although it is a heavy thing. Still, let him have the discretion.

" Then, I come to section 9. There it is said, ' Every order made under section 7 or section 8 and every order passed on appeal under section 12 . . . shall be executed . . . ' By whom? ' in the City of Madras, by the Principal Judge of the Madras City Civil Court and during the vacation of that Court by the Vacation Judge of the Court of Small Causes, Madras . . . ' This is an old provision no doubt. But I want to ask you whether it is fair that our judicial authorities should be asked to execute orders passed by a non-judicial person in exercise of his autocratic powers. Will you not bring the judiciary into contempt? How will an ordinary person who gets Rs. 15 of rent a month realize who it is that is doing this? The Controller's orders are not appealable except to an appellate authority prescribed by the Government. The judiciary have nothing to do with these things. But you want the Subordinate Judge or if there are more than one Subordinate Judge, the Principal Subordinate Judge having original jurisdiction over the area in which the building is situated or, if there is no such Subordinate Judge, the District Judge having jurisdiction, for executing the order in the mufassal. You want these judicial functionaries to carry out the behests of a Controller who is not a judicial officer or even an appellate authority or who may have no sense of judicial functions at all. This is the best way in which you can bring the judiciary into contempt. I am surprised that when an Act is amended such things are not taken note of. I hope and pray that the Select Committee may take note of this particular."

MR. CHAIRMAN :—" It seems that the object is to safeguard the interests of the person concerned. If it is a judicial authority, there are certain safeguards provided by the Act. I think that is the reason why a judicial authority has been asked to execute the order."

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* DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Will the judiciary have any power to scrutinize the order? ”

MR. CHAIRMAN :—“ Not the order, but the method of execution might be scrutinized. I think that is the idea.”

* DR. A. LAKSHMANASWAMI MUDALIYAR :—“ I am grateful to you, Sir. Whether it will be so in actual practice or not is another matter.

“ Then, Sir, ‘ If a landlord fails to make the necessary repairs to the building within a reasonable time after notice is given by the tenant . . . ’ I have already said that I am grateful to the Government for amending the Act in such a way that the cost of repairs shall not exceed one month’s rent.

“ Now, I come to another question. Section 12 (4) says—

‘ The decision of the appellate authority, and subject to such decision, an order of the Controller shall be final and shall not be liable to be called in question in any Court of law, except as provided in section 12-B. ’

This, of course, is a familiar expression in all legislations that have been passed by this Government for the past several years. The judicial authorities should have very little discretion and all these are to be considered executive functions. Let there not be any misunderstanding that I am here to appeal on behalf of the landlord or to protect the interests of the landlord. As has been already said and I repeat it, nobody is interested in protecting the interests of the landlord who does not behave as an ordinary citizen of the State ought to behave. To that extent, I entirely agree that certain provisions are necessary. On the other hand, in the whole of this Act, there is no mention of the tenant’s vagaries which have got to be controlled and against which the landlord is entitled to claim some protection. If the Act is to work satisfactorily and if the Government really intend that the Act should be worked in the spirit in which the Constitution has been framed where certain rights have been given to every citizen in regard to property, etc., this thing should be suitably amended so that it may not conflict with the provisions of the Constitution. I would also beg of the Government and plead that when they take these extraordinary powers to requisition houses for the purposes of the State or for any of their offices, it does not in the least remove the liability that they have and which they have not discharged for many many decades of providing suitable houses for their own servants.

“ One word more, Sir. When a house falls vacant, the Government may need it. The tenant that is forced on the landlord must not be a tenant with whom the landlord may not be completely in agreement. When I say that, I do not want that the landlord should pick and choose. But there should be reasonable chance for him also to see that the tenant who occupies his house is a person who knows how to utilize the conveniences provided. There are various sorts of houses taken up and there are various sorts of tenants also. It is not merely a question of the income derived or the rent that should be paid but it is also a question of fitness of the

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person to utilize the house in a proper manner. I request the Government to take note of that and to see that the interests of the landlord are not jeopardized in such a manner that he feels that his duty is only to supply houses. If this Bill is passed without any amendment and without those reasonable provisions which I consider are necessary, the chances are that landlords will not be overwilling to construct houses. After all, let me say that the yields of rent from houses constructed by landlords are not any more than what they can reasonably expect, by the provisions that the Government make, in putting that amount in either Government promissory notes or any other investments. They make this investment because of the impression in most cases that it will be a sort of permanent legacy to the family, to their children, which they cannot easily do away with, so that it might stand them in good stead. The Government are not worried if a landlord dies suddenly leaving no penny. They do not go to the rescue of his family. There is no such thing as destitute allowance given by the Government. There is no such thing as old age pension given by the Government. Yet, all that they want is to have more and more powers just to carry on their life freeing themselves from those responsibilities which any civilized Government ought to face and declaring themselves to be protectors of the poor when they are really trying to impede them in their progress."

JANAB K. T. M. AHAMED IBRAHIM :—" Mr. Chairman, Sir, since the Bill is to be discussed in detail when it emerges from the Select Committee, I shall confine myself to one or two suggestions in addition to those which have been made by my hon. Friend Dr. Lakshmanaswami Mudaliyar. It seems from a reading of this Bill that whatever house falls vacant, it is intended for Government servants. What is the percentage of the Government servants in the City to the entire population of the City? It is true that people suffer from want of accommodation. But according to this Bill, in respect of the houses that fall vacant, priority is given to the Government and their officers. Now priority is intended even in respect of houses the monthly rent of which exceeds Rs. 15. Already people are suffering a great deal to get accommodation. Whenever any house falls vacant, it is at once taken over by the Government for officers, and lakhs of people who are in need of accommodation are thrown into distress. Now if even houses whose rent exceeds Rs. 15 a month are to be taken over by the Government, what will happen to these people? Only labourers will live in houses whose rent is Rs. 15 a month. Even they have to notify to the Government whenever a house falls vacant. As Mr. Lakshmanaswami Mudaliyar said, how are these tenants to know of the intricacies of the procedure prescribed for notifying to the Government? Even if these small huts—I would call them only huts—are to be taken over by the Government, what about those ordinary labourers who have to live in some place or other in the City of Madras? Are they to be thrown into the streets? So, I would suggest that the change made to reduce it to Rs. 15"

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THE HON. SRI N. SANJEEVA REDDI :—" It is only to help the poor people that it has been reduced to Rs. 15."

JANAB K. T. M. AHAMED IBRAHIM :—" It is only for Government servants, not for labourers."

THE HON. SRI N. SANJEEVA REDDI :—" Labourers cannot be landlords of so many houses."

JANAB K. T. M. AHAMED IBRAHIM :—" What is the percentage of the Government servants to the entire population of the City? I will not go into details on this matter."

" I come to sub-clause (7) of clause 3. There it is mentioned that 'Where a landlord has two or more residential buildings in the same city, town or village which have not been let by him subsequent to the 30th September 1946 then, . . . the landlord may choose any one of such buildings for his own occupation and shall give notice to the authorized officer that every building not so chosen is vacant . . . Suppose the landlord is in possession of more than one building. In one of them the landlord himself resides. In another his son or a relative of his or a friend of his lives. In such cases, the landlord might have asked somebody, a friend or a relative to live in a particular house. This cannot be taken as letting out, but it is only a question of giving a licence. Even in such cases where the landlord might have given licence to somebody to live in a particular house, those occupants cannot be evicted if a landlord wants the house.' "

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MR. CHAIRMAN :—" What is the clause to which the hon. Member is referring? "

JANAB K. T. M. AHAMED IBRAHIM :—" It is sub-clause (7) of clause 3, Sir. Whatever may be the size of his family, the landlord cannot have more than one house. He can be a owner of a big palatial house. Of course all are not like that. (Interruption.) Leaving apart whether he has got four wives or two, what I want to say is that this clause may be all right in the case of owners of big houses, but this will be very hard on those who own only very small houses. Such a man may have a wife, and 15 children and grandchildren and the first house that he may have been occupying will be too small for him. So he may want to live in another house. At present he is prohibited from owning more than one house, whatever may be the size of his family. This seems to be very ridiculous and some provision must be made to allow him to have more than one house."

" As I said, there will be difficulty, I mean practical difficulty in dealing with cases where the landlord might have given permission to some members of his family or friends to live in one of his houses. These cannot be taken as leases as they are only licences. This aspect should also be borne in mind."

" It is very often said that the real litigation begins only after a decree is passed and we find here that there is a ban on appeals

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against orders passed in execution. I think it will be very difficult and hard on both parties if there is no appeal against orders of execution. I do not know why this new provision should have been included, in section 9. On one thing I must congratulate the present Minister. When this Bill came before the House on the last occasion, we proposed certain amendments. As the other House was closed then, those amendments were not accepted. However, I am glad to find that one or two suggestions we made on the floor of the House have been incorporated in this Bill. I would refer to section 7 according to which a landlord can requisition a residential or non-residential building for business which he may like to commence himself. As a matter of fact, I have suggested this amendment, but it was thrown out as it was thought unnecessary then. I am glad to note that they have found it necessary and included such an amendment in the present Bill. I would, however, appeal to the Government and to the members of the Select Committee to take these facts and the practical difficulties into consideration and make such amendments as may be necessary and which have been pointed out on the floor of this House."

SRI S. B. ADITYAN :— Mr. Chairman, Sir, in supporting the motion for referring the Bill to a Joint Select Committee, I wish to refer to one aspect and I hope the Joint Select Committee will keep that in mind. The main source of friction between the landlord and a tenant is the question of repairs. I believe that it is the most important source of litigation between the landlord and tenant. I suppose that it has given more cause for quarrel between a landlord and tenant than any other single cause. While this Bill was being considered in the Joint Select Committee on the last occasion, reference was made to this and it was, I believe, generally agreed that we must have a provision similar to what is contained in the Bombay Act. As the Bill now stands and taking into consideration the amendments also, a tenant, if he requires to effect even a small repair, has got to go to the Controller, make an application, serve notice on the other side, appear on the day of hearing and get an order. The repair may be very small. In cases where the repairs are major and substantial ones, it is understandable that the tenant should apply to a Controller and get his order. But ordinarily, a tenant has to meet only small repairs year after year and not substantial repairs. There may be a small leaky roof here or a small crack in the door there. The cost of undertaking such repairs may not be more than five or ten rupees. Even according to the present Bill and the amendments proposed, for effecting a repair costing only Rs. 2 or 5, a tenant has got to go to the Controller, go through all the process of litigation before he can have the repair done by the landlord. Of course, if the landlord does the repairs of his own accord, there is no quarrel. What the Bombay Act provides is, in cases of minor repairs, a tenant can give notice to the landlord and if the landlord does not carry out the repairs within 15 days, then the tenant can, without going to a Court, have the repairs effected, provided the cost of repair does not exceed a month's

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rent in a year. The Bill as it now stands with the amendments is worse than the original Bill. Because in the original Bill, when the repairs have accumulated to a substantial degree requiring large amounts, the Controller had the discretion of ordering any amount to be spent on repairs. But in the present Bill, the Controller's discretion is limited to one month's rent. I feel that it is really worse than the original Bill, looked at from the tenant's point of view. I submit that the whole provision of the Bombay Act should be incorporated into our Act and I suppose that this matter will be considered at the Joint Select Committee stage. When the same question was considered at the last Committee meeting, I thought that the feeling was unanimous that there should be a similar provision, but there was a technical difficulty, because there was no amendment to the particular provision in the original Bill. Therefore that Committee could not consider a clause to which there was no amendment. I think there could be no such objection now. I request the Hon. Minister to look more carefully into that matter and to have the whole of this clause—I think it is section 11—word for word taken from the Bombay Act, so that a tenant who has got a house which requires only small repairs, need not go to the Controller's court and take all the legal proceedings, but can effect the necessary repairs himself to the extent of a month's rent after giving due notice to the landlord. With these words, I support the motion."

* SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, I thought that this Bill would be referred to a Joint Select Committee without any speeches. Because, this Bill is nothing but a reproduction of a Bill that was passed in this House with certain amendments which the Government feel should be carried out in order to make it workable as a result of experience gained by them and as a result of certain decisions of the Courts. I was somewhat surprised that the landlords have found such a great advocate for their cause in Dr. Lakshmanaswami Mudaliyar (hear, hear). I should think that Dr. Mudaliyar is not in touch with those unfortunates who happen to be tenants. Perhaps he owns his own house and therefore not a tenant, or perhaps his landlord may be a good and generous gentleman. Sir, he pleaded on behalf of the landlords that their ignorance prevents them from knowing the various rules and regulations that are published in the Gazette. May I also point out to him that the number of tenants who are more ignorant of these rules and regulations is larger than the number of landlords and for everything the tenant has got to go to a Court to get redress. So, there is no question of ignorance either on the part of the landlord or tenant. My friend need not therefore plead for mercy towards the landlords. Ignorance prevails all over the country and ignorance of law is no excuse, be they tenants or landlords."

* DR. A. LAKSHMANASWAMI MUDALIYAR :—" Sir, by way of personal explanation, may I point out that when I was

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speaking of landlords' ignorance, I definitely referred to those whose rental income was Rs. 15. If the hon. Member thinks that they are enlightened people and are literates, then I wish him joy in this sort of hallucination."

* SRI R. SURYANARAYANA RAO :—" I hope my hon. Friend, Dr. Mudaliyar, would also realize that there is a large number of tenants who are paying a rental between Rs. 15 and 30. I would like to mention that their number is much more than the landlords getting an income of Rs. 15 by way of rent."

* DR. A. LAKSHMANASWAMI MUDALIYAR :—" I am sorry to interrupt the hon. Member again. Can he quote one instance where a tenant was made liable to undergo three months' imprisonment and pay a fine of a thousand rupees? Has it not been the monopoly of the landlord to suffer imprisonment and pay that fine? "

* SRI R. SURYANARAYANA RAO :—" Another point that Dr. Mudaliyar raised was about the amenities cut off by the landlord. The new provision is that, if amenities are cut off by a landlord, the Court is empowered to pass an interim order to give immediate relief to the tenant without going into the grounds which compelled the landlord to cut off the amenities. Sir, there are scores of cases in this City, where the tenants have been the victims of their landlords where amenities have been cut off and the only way in which they could be restored is for the tenant to go to a Court and to the Rent Controller, plead before him, establish his case and then get back the amenities cut off by the landlord. All this involves delay and unnecessary inconvenience. It is very necessary that the officer entrusted with the administration of this Act should have powers to restore immediately the amenities and later on go into the case and give his decision on the merits of the case. I think this provision should have been introduced even in the earlier stages. I may be pardoned if I mention that I was the author of a Bill on Rent Control and I gave notice of it. At that time, Mr. Prakasam was the Chief Minister. The Government said that the Government themselves were bringing forward a Bill and I might withdraw the same. So I withdrew my Bill. When the Government Bill came up for discussion on the floor of the House, I moved a larger number of amendments, and if I remember right, the restoration of amenities cut off by the landlord is one of them. But I was defeated, as you know, no amendments were accepted at the time in this House. The purpose of this Bill is to protect a large section of population who are forced to be tenants from the vagaries of the landlords. If the landlords are reasonable, there is no trouble at all between them and the tenants, and there is no need for any of them to go to a Court of Law. Sir, I was myself a victim of an eviction order."

* DR. A. LAKSHMANASWAMI MUDALIYAR :—" I am now able to sympathise with the hon. Member! "

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SRI R. SURYANARAYANA RAO :—“ I had to approach the Controller and then appeal to the Collector. I proved to the Court that the landlord had another house which he was occupying himself. I am mentioning this as Mr. Ibrahim raised the point of landlord's personal occupation. The landlord also said that his family had become big and so he wanted that I should be evicted. But the Court held that as the landlord was already in possession of a house, he was not entitled to evict the tenant. That is what is usually done. I have heard of cases where people want more than one house on the plea that some of the members of the family want to live separate. Already we find that the case of persons having two wives has been raised. Again, there are persons asking for eviction of the tenants saying that their wives want to live separately. How can the Court agree to such cases which are coming before the Rent Controller? I wish the Controllers are examined by the Joint Select Committee to know the vagaries of these landlords.”

MR. CHAIRMAN :—“ Why not sympathise with such men whose wives want to live apart? ” (Laughter.)

* **SRI R. SURYANARAYANA RAO** :—“ What I am trying to point out is, here is a large section of the population with insufficient housing accommodation and which is at the mercy of the landlords who constitute a very small section. The law of supply and demand can be allowed to operate without control when there is no housing shortage. But when the demand is greater than supply, naturally the rents will rise very high, the difficulty of getting accommodation will increase and many other problems will crop up. It is, therefore, but right that the Government stepped in at the right time to control letting of houses and rents as in the case of many other things. This Bill has been in force for the past three years and the Courts have decided many cases. Those decisions have exposed certain defects in the Act and the Government have thought fit to rectify them. As my hon. Friend, Mr. Adityan, pointed out, if only my friend Dr. Mudalivar reads the Bombay Act, I do not know what he would think of it. That Act gives so many privileges to the tenant. I call them ‘privileges’ because I know that in the Bombay City the tenants are at the mercy of the landlords to a much larger extent than those in the Madras City. 1 p.m.

“ As regards repairs, I am afraid the procedure is circuitous. In fact I cannot ask my landlord to make any repairs at all directly. I have to go to the Rent Controller, file a petition and say that certain repairs have not been effected. Then the landlord will give a counter-petition and I must rebut it. Thus the matter will drag on endlessly for months, a good deal of time being wasted in Courts. Sir, this is one of the most contentious points which should be thoroughly examined. Again, what do the landlords do? When they pay the property tax, they are very anxious to have

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the repair charges deducted for purposes of assessment. How many landlords even to-day insist on receipts being made out for sums lower than the actual rent they are getting? If the tenants do not agree to this condition, then the landlords would not carry out the repairs at all.

“ Dr. Lakshmanaswami Mudaliyar spoke about tenants. I admit there are bad tenants. That may be a small number. I have no objection to provision being made to protect the landlords if it is intended for ensuring the safety of their property. By all means provide for it. I cannot say who is bad. It may be a tenant or a landlord. But to say that this is an expropriatory measure designed only to help the tenants is not fair. I think other controls are also in a way expropriatory. You take away the liberty of certain persons to do as they like; but all these are only temporary.

“ Then Dr. Mudaliyar raised the point that the Government should take all steps to build houses for their employees. If this is done much of this problem of house accommodation will be solved in the City. I join issue with him . . . ”

MR. CHAIRMAN :—“ Why does the hon. Member join issue when he actually agrees with what Dr. Lakshmanaswami Mudaliyar has said? ”

SRI R. SURYANARAYANA RAO :—“ I am sorry, Sir, I agree with his views on this matter. We have a Housing Committee report which stated that the Government should undertake to provide houses for their employees. Its recommendations must be fully implemented. Section 3 of the Act which is sought to be amended provides a rental limit of Rs. 30. The amendment is to the effect that it will apply to those houses or portions of houses fetching Rs. 15 and above. This is good in that it will give protection to low-paid Government employees. But it will not give all relief. I am sorry that this Government have not moved an inch in providing housing accommodation to their servants whose number is ever increasing so that no private individual in the City can hope to get a house. One of the suggestions I made to the previous Joint Select Committee was that if a person managed to find a house, agreed to the rent and obtained a letter of consent from the landlord . . . ”

MR. CHAIRMAN :—“ On payment of due consideration.”
(Laughter.)

SRI R. SURYANARAYANA RAO :—“ It is not so. There are friends who may oblige and who would oblige. In such a case I suggested that the Accommodation Officer should allow the tenant to occupy the house. But the Government, I find, are still against it because they want all the vacant houses to be in their possession for their offices, officers and servants. This places the poor ordinary citizen at a very great disadvantage. He is not able to secure

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the house even if the landlord is willing because the Accommodation Officer would not allow it. This is the reason why Mr. Adityan moved in the Select Committee that members of the Legislature should be treated as essential servants. Evidently he had occasion to experience such difficulties."

MR. CHAIRMAN :—" The idea is that the notice of vacancy is to be given to the Controller so that he may allot them to Government servants. It is only a case of priority being given to Government servants and it is not as if the Government is going to take away the houses for all time."

* SRI R. SURYANARAYANA RAO :—" There are so many Government offices in the City. They are on the increase and there is hardly a building for occupation by a private citizen"

THE HON. SRI N. SANJEEVA REDDI :—" I may tell the hon. Member that only a very small number of vacancies is brought to the notice of the Accommodation Controller."

* SRI R. SURYANARAYANA RAO :—" That is due to lack of vigilance on the part of the staff. On the whole, Sir, there is nothing wrong in the Government regulating letting out of houses. There are of course certain hardships which generally all controls impose. But the hardship caused to a few landlords cannot be helped as the Act is intended to secure justice to the large number of people who happen to be tenants. On this score, we need not express so much sympathy for the landlord. I wish Dr. Mudaliyar had realized the plight of the large number of tenants in this City, who are wandering about without a house to live in. The City is over-crowded. As the Hon. the Minister has said, without the knowledge of anyone houses are sub-let, portions are sub-let. Over-crowding has been the reason for this and it will be much more if this Bill is not on the anvil."

MR. CHAIRMAN :—" I suppose this is a matter on which much can be said on both sides. We can only hope that proper safeguards will be provided for both the landlord and the tenant."

* THE HON. SRI N. SANJEEVA REDDI :—" Mr. Chairman, Sir, I thank the hon. Members for the useful suggestions that they have made. I may tell them that those suggestions will certainly be borne in mind and the Select Committee will try to do its best to improve the Act. The points raised by Dr. Lakshmanaswami Mudaliyar have mostly been met by Mr. Suryanarayana Rao and yet there are a few things which I must say. I do not fully agree with either Dr. Mudaliyar or with Mr. Suryanarayana Rao. While Mr. Suryanarayana Rao is for bringing down the limit from Rs. 30 to Rs. 15, Dr. Mudaliyar takes objection to it. I must tell him that we have to face the difficulties as they come. For instance, the owner of a house whose rental value is Rs. 100, in order to circumvent the law, divides his house into several portions and charges

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Rs. 29 as rent for a two-room portion, as the limit is Rs. 30. Likewise many houses are sub-let to families numbering three and four so that none of the portions can come within the purview of the Act. The Government cannot take possession of the house as it is split up into small bits. Secondly they charge very heavy rents but issue receipts for sums lower than what they actually take. It is with a view to removing these anomalies and also providing accommodation to the poor Government employees that the rent limit has been lowered to Rs. 15. Again families are subdivided and shown as separate tenants in order to lower the rental limit. Such things must be controlled. Of course there are houses where we find a number of families living with decent accommodation and on reasonable rent. But I am talking of small 'bits' into which a house is divided and unless we reduce the level to Rs. 15 we will not be able to provide accommodation to the poor. I have seen very many people who remain without a home. There is every justification to reduce the level still further, i.e., below Rs. 15. The peons are also Government employees and still we have not provided them with houses suitable to them to manage.

"Dr. Lakshmanaswami Mudaliyar took objection to the Corporation and other institutions being included in the list of allottees. Sir, this was specifically done on the recommendation of the previous Joint Select Committee of which Dr. Mudaliyar was also a member. Several of the amendments we have proposed now were agreed to by the then Joint Select Committee. This provision is absolutely necessary in order to help the Corporation and other aided institutions for whose development the Government are already contributing large sums. They are helpless in the matter of securing accommodation for their offices. By making this provisions I do not think we will be working any hardship on the landlord.

"Sir, there is then the question of fixing fair rent. For fixing fair rent, the rental value of the neighbouring buildings can be taken into account. Also we can take into consideration the tax payable to the Corporation or other municipal authorities. There are of course very many other ways of determining the fair rent. But we may err if we go by other calculations than these two which are the safest.

"Dr. Mudaliyar and Mr. Suryanarayana Rao spoke about amenities. If the landlord provides a garden or places a few flower pots in the garden, no one will object to it. In fact, even the Rent Controller would be happy. But that is not the kind of amenities we have in mind. We think of water-supply, electricity supply, sanitation, etc. I have known instances where these ordinary amenities have been denied. If the Government allot a building to a Government officer and if the landlord wants it for some other purpose of his own, he would not pay the electricity charges or water-supply charges so that when the officer occupies it the connexions will be cut off. It is in such cases that the Rent

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Controller is empowered to see that normal amenities are restored. If he is not empowered as such, then the tenant will have to send a notice to the landlord, the landlord will not receive it and the tenant must send a registered notice, this also the landlord will refuse to take. Thus it will take some months before the amenities, minimum amenities, are restored if there are no provision as is now proposed"

SRI N. VENKATACHALAMAJI :—" Why not the tenant pay and recover it later? "

THE HON. SRI N. SANJEEVA REDDI :—" He can pay but with the permission of the Rent Controller. I know the case of a Collector who as soon as he got into an allotted house paid the electricity and Municipal charges. But he was not allowed to get it back on the ground that he did not take the permission of the Accommodation Officer. If they pay without the Accommodation Officer's permission, they are not entitled to a refund. For that reason, power is given to the Accommodation Controller so that he may immediately restore the minimum amenities like water and electricity. We are not putting in a tahsildar or a revenue inspector as the Accommodation Controller; we are putting in a sub-judge. We feel that he will certainly look into the difficulties not only of the tenant but also of the landlord. In reasonable cases, if a landlord wants the house for his own family, if he has a married son or a married daughter who wants to live separately, we have been trying to accommodate them. But in some cases silly applications are put in, that his brother's son is studying in some college and that he wants to live in a separate house. I do not think such students should live in separate houses even if they can afford to do it. They should either live with their parents or live in a hostel. If such silly claims are put in, the Government would not concede them. But if one wants to live in his own house, and if the case is reasonable, the Government would certainly consider the request and release the house. But when it is not absolutely necessary and when a man has got 2 or 3 houses and he wants to live in a luxurious way the Government would not agree to it, especially when the accommodation position is bad and when the whole population is suffering from lack of accommodation. I have instances where some people who can afford it have kept some houses locked. One house is locked in Triplicane, another house in Mylapore and a third in Tyagarayanagar. They say that some friend might come from Delhi at some time and some other friend from Bombay and for their accommodation they have kept them locked. Under the present Act we cannot control such houses. That is the reason why we are trying to amend it. If a person has three or four houses, he should not certainly keep them locked expecting some friend from distant places like Bombay or Delhi to turn up."

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JANAB K. T. M. AHAMED IBRAHIM :—" Even when it is occupied by some friend, will he be evicted? "

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THE HON. SRI N. SANJEEVA REDDI :—“ Certainly we will not evict the person when the house is actually occupied. There is no provision in the Act by which we can evict the tenant if the house has been given to him by the owner and if he is in actual occupation. We certainly cannot evict him unless the landlord has disobeyed the law and given the house to the friend when the Controller has given him a notice that he wants the house for Governmental purposes. When the landlord has disobeyed the law, the Government can certainly evict the tenant.

“ Sir, the hon. Member Dr. Lakshmanaswami Mudaliyar spoke about the vagaries of the tenants. I do agree that there are some people who do most illegal things such as breaking the lights and so on. If such things are brought to the notice of the Government we can easily punish the offenders, because most of them are Government servants. It is not everybody who would do such things. It is only once in a way that we get a bad tenant like that. If it is brought to the notice of the Controller, it is quite easy to control such a tenant, because invariably he is a Government servant. We are not allotting accommodation to anybody except Government servants. The Government can certainly compensate for the loss and see that things are done better.

“ Sir, Dr. Lakshmanaswami Mudaliyar said that if controls were going to continue for long, he was afraid that new houses would not come up and nobody would invest capital on building new houses. Sir, we are not controlling new houses. New houses are being let out at high rents. They have been constructed at great cost. The houses that have been constructed at Gandhi-nagar and other places are not controlled; they are being let out at high rents. There are not very many people who go and live in such houses and many of the houses are vacant. Their rents are not controlled and there is therefore no fear of new houses not coming up.”

MR. CHAIRMAN :—“ Why are new houses not controlled by the Act? ”

THE HON. SRI N. SANJEEVA REDDI :—“ Because they have been constructed at great cost.”

THE HON. SRI K. MADHAVA MENON :—“ The first letting of the house will not come under the Act. The vacancy arises only after the first letting.”

THE HON. SRI N. SANJEEVA REDDI :—“ The rents of new houses are not controlled.

“ The hon. Member Mr. Adityan said that it will cause great inconvenience and difficulty to the landlords if, in the case of houses fetching a rental of Rs. 15 the tenant spent Rs. 5 or Rs. 10 a month on repairs. As we have allowed one month's rent in a year towards the expenses of repair, it will serve the purpose. For making any repair, the tenant should take the permission of the Accommodation Controller. But if the house

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is leaking, it is difficult for the tenant to run to the Accommodation Controller and take his permission for small repairs costing Re. 1 or Rs. 2. For such small repairs, it is not absolutely necessary that the tenant should think of recovering one or two rupees from the owner. If it is a minor repair, the tenant himself may attend to it. If it is not a permanent repair, the tenant must be able to attend to small things. If it is really anything expensive, he can apply to the Accommodation Controller and adjust one month's rent towards the repairs.

“Sir, I have nothing more to add except my assurance that we would certainly bear these things in mind and place the facts before the Joint Select Committee and try to do what best we can, taking all the difficulties into consideration and also the defects in the Act pointed out by hon. Members of this House.”

MR. CHAIRMAN :—“The question is—

‘That this House concurs in setting up a Joint Select Committee of the two Houses consisting of nine members (six members from the Assembly and three members from the Council) to consider the Madras Buildings (Lease and Rent Control) Second Amendment Bill, 1950, and that the following members of this House be nominated to the said Joint Select Committee :—

(1) The Hon. Sri K. Madhava Menon.

(2) Sri H. M. Jagannatham.

(3)-Sri P. R. K. Sarma.’ ”

The question was put and carried.

(6) THE LEGAL PRACTITIONERS (MADRAS AMENDMENT) BILL^a 1950
(L.A. BILL NO. 15 OF 1950).

THE HON. SRI K. MADHAVA MENON :—“Sir, I beg to move—

‘That the Legal Practitioners (Madras Amendment) Bill, 1950 (L.A. Bill No. 15 of 1950), as passed by the Legislative Assembly and transmitted to the Council, be taken into consideration.’

Sir, this is only a very minor amendment enabling the pleaders in Pudukottah who had got themselves enrolled as life pleaders while the Pudukottah Durbar was there to continue as pleaders in this State without paying any additional stamp fee. They have to take a renewal, but they need not pay Rs. 25 since they have already paid a consolidated fee of Rs. 350 to the Pudukottah Durbar and got themselves enrolled as pleaders for life. They will be ordinary pleaders entitled to practise in three districts. They have to apply for renewal only but they need not pay Rs. 25. That is the amendment that is now proposed.”

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MR. CHAIRMAN :—“ The question is—

‘ That the Legal Practitioners (Madras Amendment) Bill, 1950 (L.A. Bill No. 15 of 1950), as passed by the Legislative Assembly and transmitted to the Council, be taken into consideration ’.”

The question was put to the House and carried.

Clauses 2, 1 and the Preamble were then put to the House one by one and carried.

THE HON. SRI K. MADHAVA MENON :—“ I move, Sir—

‘ That the House recommends to the Assembly that it approves of the Bill.’

“ As this is a Money Bill, there must be a recommendation back to the Assembly. There is some difficulty about the position, since this a Money Bill.”

MR. CHAIRMAN :—“ There is no difficulty at all. All the difficulties have been resolved. I have stated my considered views and circulated them to the Speakers and Presidents of the various Legislatures including the Speaker of the Central Assembly. I have got their opinions . . . ”

THE HON. SRI K. MADHAVA MENON :—“ I only came to know of it after the Speaker had certified that it was a Money Bill.”

MR. CHAIRMAN :—“ The predominant opinion is that even a Money Bill should go through all the three stages.”

THE HON. SRI K. MADHAVA MENON :—“ What is the final stage? ”

MR. CHAIRMAN :—“ If we make any amendments here, we send the Bill back with the amendments. We do not call them ‘ amendments ’; we call them ‘ recommendations ’. If we make any changes here, we call them ‘ recommendations ’ and send the Bill back to the Assembly. If we have no recommendations to make, we simply pass the Bill and inform the other House that we have passed the Bill. The Hon. Minister may move that the Bill be passed.”

THE HON. SRI K. MADHAVA MENON :—“ I move—

‘ That the Bill be passed ’.”

MR. CHAIRMAN :—“ With reference to the other Bills, the form of the motion ‘ that the Bill be passed into law ’ is a misnomer and has no meaning. If the Bill comes here from the other House, it does not become law unless it is assented to by His Excellency. If it is taken up here for the first time, it does not become law unless it is accepted by the other House and assented to by His Excellency. As it is done in other countries, the form of the motion should be ‘ that the Bill be read a third time ’ or

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that the Bill be passed', because it does not become law *ipso facto*. I have got all the information about this and I will circulate it to Members. Anyway, the question now before the House is that the Bill be passed without any recommendations."

The question was put to the House and carried.

VI.—GOVERNMENT RESOLUTION.

DELIMITATION OF CONSTITUENCIES AND THE CONDUCT OF ELECTIONS TO LEGISLATURES.

THE HON. SRI B. GOPALA REDDI :—" I move, Sir—

'That this Council requests the Government to convey to the Government of India the following as the recommendations of this Council in regard to the delimitation of the constituencies of, and the conduct of elections to, (a) the Legislature of this State and (b) the House of the People :—

I. Delimitation of Constituencies.

- (1) *Legislative Assembly of this State and the House of the People.—Seats for Scheduled Castes and Scheduled Tribes should be reserved in plural-member constituencies with two seats each, one general and the other reserved for Scheduled Castes or Scheduled Tribes. All other constituencies should be single-member constituencies.*
- (2) *Legislative Council of this State.—There should be not less than two seats in each constituency, with proportional representation with transferable vote.*

II. Conduct of Elections.

- (1) *The coloured box system should be adopted.*
- (2) *The boxes for the General and Reserved seats in plural-member constituencies should be kept in separate compartments in each polling booth.*
- (3) *Watchers need not be appointed.'*

That is the resolution that I want to move. I want to explain the history behind the various proposals and the recommendations of this Government and the instructions of the Government of India. All these matters I want to deal with a little exhaustively in the afternoon. I may be permitted to begin my speech in the afternoon."

MR. CHAIRMAN :—" How much time would the Hon. Minister like to take? "

THE HON. SRI B. GOPALA REDDI :—" About 45 to 60 minutes."

MR. CHAIRMAN :—" Are there a large number of speakers who want to take part in the debate? "

DR. A. LAKSHMANASWAMI MUDALIYAR :—" It will depend on what the Hon. Minister says."

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MR. CHAIRMAN :—" I am just trying to see whether it is necessary to sit to-morrow also, because we are scheduled to sit to-morrow afternoon also if we do not finish this to-day. There will be a simultaneous sitting of the other House also. If we finish to-day, it will be all right. The House will now adjourn and reassemble at 2-30 p.m."

The House adjourned for lunch.

(After lunch—2-30 p.m.)

JANAB ABDUL LATIF FAROOKHI :—" Sir, before the Hon. Finance Minister proceeds to speak on the resolution, I should like to make one request on behalf of the Opposition. This is quite a new subject to us and we want to hear him and understand him. He has promised to be very exhaustive and he has been pleased to promise so. We request that we may be allowed to give notice of amendments to the resolution, after we have heard his speech."

MR. CHAIRMAN :—" Well, we shall see."

THE HON. SRI B. GOPALA REDDI :—" Mr. Chairman, Sir . . ."

MR. CHAIRMAN :—" I may inform hon. Members that Mr. Ibrahim has already given notice of an amendment asking for plural constituencies. That amendment is coming before you now, I have asked it to be roneoed and circulated to you now."

THE HON. SRI B. GOPALA REDDI :—" Who has given notice, Sir? "

MR. CHAIRMAN :—" Mr. Ibrahim."

THE HON. SRI B. GOPALA REDDI :—" Sir, this is indeed a very important proposition that I am moving, and I will explain what has been done by the Government. Our proposals are being sent to the Election Commissioner who, according to newspaper reports and the advice he has sent us, will publish them and invite public opinion. Perhaps a second opportunity will be given to each House of the Legislature to discuss the actual delimitation, how each taluk or each district has been delimited."

MR. CHAIRMAN :—" So, Mr. Sen will publish? "

THE HON. SRI B. GOPALA REDDI :—" Yes, he will publish and invite public opinion."

MR. CHAIRMAN :—" The details of the delimitation also? "

THE HON. SRI B. GOPALA REDDI :—" Yes. At present the delimitation proposals are not being made available to hon. Members but only the general principles of delimitation are being discussed. I shall explain the scheme of things which is being forwarded to the Election Commissioner, and this is just the time, if the House wants to make any representations to the Government

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of India and the Election Commissioner, to do so, so that they may in good time modify their proposals and ask us for alternative schemes.

" Sir, on the 26th January this year, we gave to ourselves this Constitution of India, and we have declared in the Preamble itself that our Constitution shall be based on the Sovereign Democratic Republic, and to secure to all its citizens justice, liberty, equality, etc. It is, therefore, a sovereign democratic republic; indeed it is a democracy, and it is up to us and to the various parties to make this democracy a success. We are still in our infant stage of democracy, of our own rule, and yet we have the experience of various other countries, and we have also been benefited by their experiences.

" Sir, democracy means people's rule; but it is not that all the five crores of people in this State can rule themselves. Necessarily, democracy must imply representative government; and when it comes to the question of sending representatives, there again the whole country cannot be one constituency. It has to be delimited and divided, so that there may be a manageable constituency, there may be direct contact between the candidate and the electors, so that the candidate may feel that he is voicing the wishes and aspirations of the people. Sir, as I said, some of the countries have adopted this representative system of government. There was a time when Mussolini was in power in Italy. He also thought he was administering the country in the name of democracy and he used to prepare a list of 400 and odd members and put it to the people 'Do you approve of the list? If so, vote aye, otherwise you vote no'. That was how he was conducting his periodical national elections. He himself, as the supreme head of the State, perhaps as the Prime Minister under the King, used to prepare a long list of candidates and put it before the electorate. That is not the system we are going to adopt. But, as I said, Sir, we must have some manageable constituencies, and we must divide the districts and taluks so that we may have constituencies, whether single or plural.

" Then, Sir, for the first time in the history of our country, we are embarking upon this new bold experiment of adult franchise. Article 326 of the Constitution lays down that all our elections must be based on adult franchise. Adult franchise means very nearly 50 per cent of our voters on the rolls going to the polls, choosing their representatives and trying to give vent to their aspirations through their representatives. Since all of them cannot be in the Legislatures and enact laws, they act through their representatives. We have also traversed a long ground right from the year 1920 since we had the first experience of these elections. I do not know myself, of course, except what I read in some books, what used to be the nature of elections prior to 1920; but we have a fairly intimate knowledge of what transpired after 1920 since the inauguration of the Montague-Chelmsford Reforms. I think from 1920 to 1937 we had only 3 per cent of the people on the electoral rolls and the Ministers who used to manage the affairs of

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Government in the name of the people under the diarchical system were returned only by a 3 per cent of the electorate. Later on, in 1937 when we had Provincial Autonomy under the Government of India Constitution of 1935, to start with we had only 14 per cent of the people on the electoral rolls. Later on, I think, as a larger number of people with literacy qualification came to be enumerated, it came to about 16 to 17 per cent, and it never exceeded that figure. To-day for the first time, however, this adult franchise is going to give us an electorate of very nearly 50 per cent. In some districts it has even exceeded the 50 per cent limit, and it is really a bold experiment we are trying. Perhaps in other countries, it took a long time for them to reach this stage of adult franchise; for even in England, it was not till 1928 that women of the age of 21 got their votes. For a long time, they were left behind electorally, and they had to strive hard to get themselves recognized as voters, as the legitimate participants in the election of candidates; and after a long struggle and sacrifice they came to be enumerated as voters. But till 1928, if I remember aright, only women above 30 years of age were included in the electoral rolls. Since 1928, however, women and men of 21 years of age came to be registered as voters, and that is how the English electoral rolls stand to-day and all adults of 21 years of age have a right to be enrolled as voters and also to send their representatives to the Parliament.

"We may all remember that the question whether women should be enfranchised or not has been debated in other countries, and even to-day in enlightened countries like France and even in an important province like Quebec in Canada, women have no votes. Perhaps they can stand for the Parliament but they have no right to vote. But here under our Constitution, we cannot discriminate against anybody in the name of sex or in the name of religion, and therefore, all adults of 21 years of age are coming into the electoral rolls for the first time. There is no property qualification, no educational qualification, except of course some residential qualification, and that they should be of sound mind, and such things—there is no other disqualification attaching to any of the electors. Sir, in England where the population is not as much as in the Madras State, they have 675 members. That means their constituencies are much smaller than our own constituencies. In a country where there are only 40 millions of people or 4 crores of people, they have 675 representatives; but here in our own State where the population is 5 crores, our representation in the Provincial Assembly will be 375 and our representatives in the Indian Parliament will be one-fifth of 375, viz., 75. I shall come to it later, it is to be on the multiple vote that we will be sending representatives to Parliament. Parliamentary representation will be 75 from this State and the strength of our Assembly here will be five times 75, or 375.

"Sir, our constitution is also very novel if there is anything novel in the sense that compared to what we were accustomed to in the elections since 1920 onwards and in the 1937 elections, it differs in many respects very fundamentally. I will have to

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explain some of the differences, though some of them are very well-known to our members. The joint versus separate electorate question has been finally settled by the Constitution. That question which was being discussed in all the Assemblies, Councils, the Congress, the Muslim League and various non-official organizations which were all troubled with this problem, has been finally decided by the Constitution in favour of the joint electorate. The question of separate electorate for anybody, be they Muslims, Christians, Anglo-Indians or Europeans, is done away with, and we are now having a Constitution which will not recognize as such any religious or any communal minority.

"Sir, we had a very curious thing in Madras from 1920 to 1937 under the Montague-Chelmsford reforms; we had a sort of reservation for the Non-Brahmans. Each district was a constituency and at least one of the seats was reserved for a Non-Brahman. That is what happened between 1920 and 1937. Thereafter, that reservation was not there; it did not continue. But, separate electorates, with reservation of seats and a little weightage for some minorities like the Muslims and Christians, were recognized by the 1935 Act and we have them even to-day and perhaps they will all be done away with under the new Constitution."

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p.m.

JANAB ABDUL LATIF FAROOKHI:—"What happens now?"

THE HON. SRI B. GOPALA REDDI:—"Even now we have the Muslims and Christians from their electorates. Till we have the next elections, the present Legislative Council and the Assembly contain members who are representatives of **their** separate constituencies and not a joint constituency. It is only a continuation of the old system of 1935 and the new system has not yet come into force. Of course, they may have also the special seats which were reserved for women, labour, zamindars, commerce and other special interests like the University, but hereafter we shall not have any of these, except the territorial constituencies. There again, we have made a very fundamental departure from the old system and therefore we will have only the territorial constituency everywhere and no special seats to be represented, no special minorities to be represented, except the Scheduled Castes and Scheduled Tribes, and all of them must come into the general pool of the electorate and get themselves returned from the joint electorate.

"Sir, coming to the proposition proper, the main thing has been whether it should be single-member constituency wherever there is no reservation of seats for the Scheduled Castes or the Scheduled Tribes. This question also engaged the attention of many politicians and statesmen in various other countries at various times, yet, I think, the final word on it has not been said as to which is the right type of system through which the popular representatives could be returned to the various Legislatures or Parliament. Even now in various countries there is a wrangle

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between parties and parties as to whether it should be single-member constituency or multi-member constituency with proportional representation or multi-member constituency with cumulative voting, so that the minorities can plump their votes for the candidates of their choice or should it be the multi-member constituency with single non-transferable vote as we had in the case of panel for Harijans where you have got four seats to be filled and every elector has got only one vote for one candidate, while there are four candidates, so that the different minorities can go and plump their votes for their respective candidates and the minorities might get representation.

"Sir, I do not want to be dogmatic and assert that this particular system has its own advantages, because all people who have dabbled with politics have been taking great pains to discuss this problem, various committees were set up to go into this question and various reports have been submitted to the various Governments, but I do not think, as I said, the last word has been said on the subject. To-day, while the United Kingdom and the United States of America also are having only single-member constituencies, there are other smaller countries like Ireland where they are trying multi-member constituencies with proportional representation by means of the single transferable vote. But, Sir, in the United Kingdom, I think, they had a poll in 1938 or so, when they decided to do away with some of the special seats also and adopt the single-member constituency system and right from the beginning, I think, the United States both for the Upper House and the Lower House, the Senate and the House of Representatives, they always had the single-member constituency. As I said, we will have smaller constituencies than in the United States and bigger constituencies than in the United Kingdom. In the United Kingdom, as I said before, there are 675 representatives for a population of four crores of people, while in the United States they have 475 or so for a population of about 14 crores or even more. We are in between, Sir, and our general rule in this State will be one lakh and forty-five thousand people for every constituency. That means 50 per cent of it will be the electors and about 70 per cent of the people will have to enlist themselves, at least a majority of them, so that they can be returned to the State Legislature. Sir, in our State, we had experience of both multi-member and single-member constituencies. During the last thirty years, we have had four elections in the pre-autonomy days, i.e., in 1920, 1923, 1926 and 1930 and two elections under the Government of India Act, 1935 in 1937 and 1946. For the first four elections we had what is called the multiple constituency in our State, while all other provinces, except Madras and Bombay, have plumped for single-member constituency. Even in those days under the Award of the Southborough Committee which sat in 1917-18, Madras and Bombay were allowed to have only multi-member constituency, so that the various communities, only minorities, might also have their little representation in the State Legislatures. Therefore, Sir, from 1930 to 1937 we had the

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multiple constituency. Chittoor, for instance, had two members; Krishna originally had four members with West Godavari also and later when West Godavari was bifurcated West Godavari had two members and Krishna two members. Tanjore, for instance, had three members and Mathurai had three members. Like that either two or three members generally were the order of the day and we had experience of that system from 1920 to 1937 when we had four elections and later on in 1937, under the Hammond Committee Report—of course, the Committee report was one way and the ultimate decision of the Legislature which was accepted by Parliament was another way—we had generally the single-member constituency, while here and there we had multiple constituencies also. For instance in Rajahmundry, we had a multiple constituency which could return two members without any reservation of seats for Harijans and where the Harijan seat was reserved it was generally the multiple constituency. But, we had 6 or 7 constituencies which could return two members. In the Krishna district also, the Bezwada Rural constituency is a multiple constituency where two non-reserved seats are there for joint electorate. In the south also, there are two or three districts where we had the multi-member constituency. We had multi-member constituency in Malabar also.

“ So, Sir, we are in a very good position to decide the relative merits of the two systems, because we have gone through these two systems here in previous years and we will have to decide which is better, which will be more manageable, which will give better results and which will be the better mirror of popular opinion in the Legislature.

“ Sir, under the multiple constituency, we had a very funny election system where public opinion was very difficult to ascertain. For instance, in the Krishna district, in 1926 the Raja Sahib of Mirzapuram was returned along with the Swarajist candidate, Mr. A. Kaleswara Rao. One was attached to the Ministerialist party, namely, the Justice party, and the other was attached to the Swarajist party and if anybody were to ask whether somebody had voted for the Government or against the Government, nobody could say it, because it was all 50—50. Sir, we have always that difficulty in the multiple constituency. While it has its advantages, such curious things happen like that occasionally, when you would not be able to ascertain the wishes of any people on any particular issue of topical interest. Therefore, to some extent it has to be discountenanced on this score. Whenever we go to the polls, we must get the clear verdict of the people on definite issues. It may be at every election there may be some misuse of the mind of the people and people must be able to give their verdict in unequivocal terms whether they like it or not. Whether what has been done by the Government has been approved by the people or generally disapproved, with the multiple constituency, it is difficult on occasions to ascertain public opinion correctly. Likewise, in 1920, from Chittoor, Mr. Muniswami Nayudu and C. R. Reddi were

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returned. Mr. Muniswami Nayudu was a Ministerialist and C. R. Reddi was opposed to the Ministry and he himself sponsored the no-confidence motion against the Ministry . . .”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ That was on a subsequent occasion.”

MR. CHAIRMAN :—“ I think the Hon. Minister said it was in 1920. In 1920, Mr. Muniswami Nayudu and Mr. M. Ramakrishna Reddi were returned.”

THE HON. SRI B. GOPALA REDDI :—“ I am sorry. I thought I said 1923 when Muniswami Nayudu and C. R. Reddi were returned. When later on Mr. Muniswami Nayudu and C. R. Reddi were there, they both belonged to different parties. As I said, that was our experience during those days. But in 1937, no such thing could happen, except of course, in those very limited number of single-member constituencies, because the general run of our system was single-member constituencies. So, we will have to decide which system is more conducive to get the correct public opinion on matters and that is the point on which we want the opinion of the House. Therefore, the very first point of my proposition is that wherever there is no reserved seat, it shall be a single-member constituency and where a seat has to be reserved for Scheduled Castes or Scheduled Tribes, it shall be a multiple constituency. Sir, the experience of other countries also is that and as I said, the Southborough Committee which sat in 1917-18 discussed at great length what should be the system of voting here in Madras. While they recommended single-member constituencies for all other States, because of the very peculiar circumstances which obtained in Bombay and Madras, they did recommend the multiple constituency for these two provinces. Again, the Hammond Committee which sat in 1935-36, with the assistance of the Provincial Delimitation Committee presided over by Mr. S. Muthiah Mudaliyar, went into the question whether Madras should have single-member or multi-member constituencies. A very curious thing happened. In spite of the Madras Government's view that single-member constituency should be the general system, and in spite of the majority view of the Provincial Delimitation Committee, the Hammond Committee which went into the question, of course, on the evidence of the various authorities and on the strength of the minority report, recommended multi-member constituency with single non-transferable vote.

3 p.m.

“ Ultimately, before it was finalized, there was a debate in the Legislative Council on the 11th March 1936 when the Hammond Committee Report was vetoed by a majority in the Council; it was duly communicated to Parliament and Parliament accepted the recommendation of the Council and the single-member constituency was accepted according to the Madras Government's view and the recommendations of the majority of the Provincial Committee. That was the occasion when the Hammond Committee's recommendations were reversed by a decision of the House

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and it may be said to the credit of Parliament and of members who took a particular view upon it, that it had the assent of Parliament. That is the history of the single-member constituency and it is up to us now to decide on the merits of the question. Generally the single-member constituency is preferred in most of the advanced countries, because it is the simplest system that could be thought of and with a large number of illiterate voters who cannot distinguish between one candidate and another candidate, when the party system is still in its infancy perhaps the single-member constituency system is easily the best. A large number of candidates in the multi-member constituency will be baffling to the average rural voter. In view of the general backwardness of our voters who in a large number of cases are coming into the electoral rolls for the first time, they will take a long time to get a degree of literacy needed for political knowledge and so, it is better we adopt the single-member constituency. The second point that ought to weigh with anybody is the manageability of the constituency. There is no use of giving me a big constituency and asking it to return four members, where they cannot do justice to the electors and carry the tenets of the principles of their party as embodied in their election manifesto and make them understand not only their party principles but also the principles for which the various parties stand for. Therefore, it is desirable that and up to you to take a small constituency so that you can approach as large a number of voters as possible and bring them round to your view; by that means you are educating your masters as it is called; they are the masters, the ultimate arbiters to decide who should be in the Parliament to voice their feelings. For these purposes, it is necessary that it should be of a manageable size where you could have direct contact with a large section of the people. The point to be remembered is that in a multi-member constituency, wherever there are two or three members to be returned, it is nobody's constituency and each man thinks that he is not the only member and there are the other two who are representing that constituency and he does not feel that it is his responsibility to look after the interests of that constituency. For example, Sir, we have certain multi-member constituencies in certain districts like Visakhapatnam, Tanjore and East Godavari. If a single member is returned by a limited constituency, he can speak on behalf of his own electors as the sole representative of the people; but where there are two or three members, it becomes nobody's responsibility and each does not feel that he is the representative of all people and he can speak for them, when the representation is shared by two or three other members. It is better and it is up to you to have the single-member constituency so that we can have contact between the elected and the electors, between the representative and the people who sent him to the Legislature. In England and other countries, we always see the members going into their constituencies immediately after the Budget session in order to explain to the voters the party principles; if they belong to the Ministerialist party, they explain to the people what they have achieved with reference to

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what they said they would and if they belong to the Opposition, they try to belittle what has been done by the Government and between them they educate the people for the next opportunity, that is, when they will be having the elections. It has been discussed which system will conduce to the formation of party system. For democracy to be successful, you must have developed well-organized parties so that they will go before the country and tell the people their own views, the pros and cons of things on the tapis in the Assembly; the party system, therefore, becomes a necessary adjunct of democracy. Some of our friends are deploring the lack of a well-organized party system in the country; it is all a one party show and things are not done in a democratic manner and there is not that congenial atmosphere for a second or third party functioning effectively both within the House and in the country. Therefore, Sir, we feel the need for a party system and looked at from that point of view, the party system can well be developed in the single-member constituency and not under the multi-member constituency under which system you will not be able to say how the people have expressed their view, whether they have voted for the abolition of the zamindaris or they want the zamindari system to continue. If you take the case of Krishna and have two representatives here, Mirzapur Raja and Kaleswara Rao, you will be at a loss to know if the people have voted for Prohibition or against it, or the people wanted the zamindari system to be continued or they wanted it to be abolished; you will have no idea of what the considered view of the people of that district is regarding so many other issues which have been placed before them and you will not be able to know finally how the people have voted. In order to develop well-established party system, it is right that we should have the single-member constituency so that we may know if the people have voted for the Government or not and whether the people have approved generally the broad principles that had been placed before them. The party system is really a consummation much to be desired; we are yet in the infancy of the party system. We have immediately after the attainment of Independence only one party managing the whole show just now and I think that in the years to come when true democracy begins to function, there is scope for other parties to spring up and to get represented in the House. Being a thing which must be desired, we must afford all opportunities which will be conducive to the formation of the party system. Advocates of multi-member constituencies believe that in plural-member constituencies, minorities, whether they are religious or social or political minorities, will be able to get better chance of representation. The Hammond Committee took much pains to examine the conditions in Madras and they said that under a system of single-member constituencies, that community which is preponderant in the electoral roll will get a chance of being elected every time and other minorities, social, religious or political minorities will never get a chance. They have discussed that in a constituency preponderantly Kamma, only a Kamma will be returned and likewise in a constituency preponderantly Reddi,

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only a Reddi will be returned and when it came to their recommendation, they said that in their best judgment, plural-member constituency will be best suited for the conditions in Madras but with the single non-transferable vote. Of course it was reversed by a later decision of the House. Naturally in a multi-member constituency, the question has been discussed how the voting will be done; whether we are going to have distributive voting or the cumulative voting or the single non-transferable system of voting or the transferable vote or the limited vote. There are ever so many ways which strive to bring in minority representatives into the Legislatures. That has been engaging the attention of many of our reformers and they have bestowed much care and thought to the question as will be seen from the enormous number of publications which canvass support for particular systems of voting. There are people who think that the system of proportional representation is the panacea for all the ills and maladies of political and other minorities and that alone will assure representation for the minorities and that will give great satisfaction to the minorities. You cannot leave the minorities behind by some system of election. If you decide upon the plural-member constituency, we have to examine whether we shall have the cumulative or the distributive system of voting. We have had here again three systems of voting from 1924 to 1937; we had the distributive system of voting under which the voter had as many votes as there were vacancies but he could not bunch all the votes if he did not vote to the extent that he had votes, the other votes will have to be allowed to rust. After 1937, the system of cumulative voting came into existence especially in plural-member constituencies where seats are reserved for Harijans, like the general constituency in Rajahmundry or the Vedaranyam constituency where the voter could bunch the votes for a particular candidate or he can distribute the votes as they liked. Under that system many thought that representation would be given to minorities. Experience of the working of the single non-transferable vote in the Harijan panel elections, where, as I said, there were two seats to be filled, every Harijan voter had only one vote. In a resolution moved in 1939, Mr. M. C. Rajah pointed out the defects of the pernicious system of bunching votes and how it affected Harijan candidates in the general elections of 1937; there was a great disparity between the votes cast by the general constituency and the Scheduled Classes. While the general candidates had as many as 30,000 votes, the Harijans except in the Vedaranyam constituency got only 1,500 or 1,800. On a motion of Mr. Rajah the House unanimously decided to do away with this system of cumulative voting and Parliament again accepted it and by 1946 elections, we did not have this cumulative system of voting but only the distributive voting came into being.

" But, Sir, somehow our Madras Province has not taken to cumulative voting. But Bombay has always advocated this cumulative system of voting; where, for their municipal elections, Council elections and Assembly elections, they always had this cumulative

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system of voting. Some time ago, in Bombay Corporation, they had such a huge system of multiple constituencies that the whole city was divided into six wards, and in some wards there were as many as twelve candidates. Since they had the cumulative system of voting, under it, a voter could cast all his twelve votes to a single candidate, and in that way, a single candidate could get 12 votes straightaway. That was the system which prevailed in Bombay some time ago; and even now, they have got multiple constituencies in Corporation elections in Bombay. I think they have this cumulative voting also. But in Madras we had it once and we have got rid of it subsequently. (Interruption by Sri A. Govindacharyulu.) In 1937 we had it for the Council; we had it for the Assembly; but in 1939 Mr. M. C. Rajah moved a resolution to cancel it; and it was carried; and thereafter Madras does not have cumulative voting at all. I think even for the two seats which had to be filled from East Godavari, this system of cumulative voting was not adopted in 1937. (An hon. Member: 'It was an uncontested election.') Anyway, Sir, we have got rid of it, and I hope it will not come back to our Province, as we have not taken to it kindly.

"Again, Sir, regarding multiple constituencies, while it gives some representation to social minorities or religious minorities, the other side of the picture has also to be represented. Because I have a feeling, multiple constituencies will again perpetuate the caste system. If there are two seats to be filled either on distributive vote or cumulative vote, then the tendency for the candidates will be to say, 'I am a minority man, I belong to your community or I belong to your religion, therefore you please vote for me.' Even if it is a distributive voting system, even that will perpetuate the caste system, which we want to get rid of. Further our Constitution contemplates in terms of individuals and citizens and not in terms of communities, religions and special interests, etc. Therefore, Sir, I have my own feeling that if we once accept multiple constituencies we would again bring back the caste system and the religious feeling through the back door, and that may prove baneful to our new Constitution. Therefore, I am of opinion, and that is also the view of Government, that we should adopt only single-member constituencies.

"Then, Sir, my second point is, for the Legislative Council, under the Act itself, every seat should be filled only by proportional representation with single transferable vote. That postulates, Sir, a multiple constituency; and, therefore, for the Legislative Council, that is the Upper House, it is indirect election from the Assembly; because, Sir, you may remember that we will have 72 members here; of whom 24 will be returned from the Assembly, 24 from the local boards, six will be returned from graduates, six from teachers and twelve by nomination as experts on scientific research, etc. In all these cases, they are all to be returned through proportional representation with transferable vote. That means we may have multiple constituencies of two or three or four members; and whether it is in the graduate's election or teacher's election, we

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must have a constituency with not less than two seats, and to ensure a good system of return we should adopt the single transferable vote.

“ Then with regard to the conduct of elections, my resolution says, we may adopt the coloured box system. In England and other countries, the system of marking on the ballot paper by × mark is in practice. But with the large mass of illiterate voters on our rolls, I do not think that will work satisfactorily here. We tried, therefore, the coloured box system in the elections in 1936 and 1946. But there is also the token system or the symbol system, which again was adopted in Bombay in connexion with the corporation elections. There, the candidate is represented by a symbol, for example, a tree or a cow on the ballot paper. There, the voter is asked to go and mark for the candidate having the cow or tree symbol. In that system also, the voter has to go to the polling booth with pencil in hand and mark for the candidate to whom he wants to cast his vote. That is all difficult for the illiterate voter. So, the symbol system may not suit our illiterate voters. Therefore the coloured box system, which has been tried in our State twice before, and which has proved a success, may as well be continued here.

“ Then, Sir, there may be some constituencies where there may be a general seat as well as a reserved seat to be filled in. In the elections in 1937 and 1946, there were such seats to be filled. It may be, for the general seat the contest may be between a caste-Hindu and a Harijan; and it may happen both the seats may be secured by Harijans and the caste-Hindu may be defeated. There again there is some difficulty experienced in actual working. Where the contesting candidates are more than two, a large number of boxes may be required to be placed in the polling booths. Suppose there are two candidates each for the general and reserved seats; then, four boxes should have to be placed in the polling booth, each having a particular colour. That will surely confuse the voters at the time of voting; and in the case of colour blind voters the difficulty will be greater to vote. And the more the number of candidates contesting for each seat, the more the number of boxes will have to be placed with distinct colours. All this would cause confusion to the voters. Therefore for the first time we are introducing a little change in the election rules. Even if a seat is reserved for a Harijan or backward community, the returning officer will be different. I shall make myself more clear. Suppose there are two candidates contesting for a Harijan seat. The voter goes into the booth; there he will be given one ballot paper instead of two (one for general and the other for reserved seat), and he will be asked to exercise his vote between the two candidates. Having done so, he will go into another booth (and this is for the general seat) and he will be given a ballot paper and asked to exercise his vote. Otherwise, if all the boxes are placed in the same polling booth the voter would become confused and he will put all his votes in one box, which would then become a cumulative vote or an invalid vote and the election officer would be put to the task of deciding several such cases. But if a separate booth is set up for each seat there is no

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such trouble; and further there is very little difficulty in counting of votes in such a case. So we have divided the polling booth into two.

Lastly, Sir, we have said that watchers need not be appointed. Of course, whenever there is the coloured box system adopted, it must be ensured that the voter who is given the ballot paper deposits his paper in one of the boxes placed in the booth. Sometimes, even according to Hammond Committee in municipal elections, it happens that some voters do not deposit the ballot paper in the ballot box but carry it away with them and hand it over to one of the candidates, who collects all such papers, and towards the close of the day one of his men proceeds to vote and deposits all the papers in that candidate's box. To prevent that we had the watchers in the 1937 elections and we tried them in the 1947 elections also, and I do not think there were many complaints of the ballot papers being taken away and deposited afterwards. But the whole system requires a huge army of officers, namely, election officers and polling booth officers. If only one calculates the number of officers required one is simply staggered at the huge figure; for we want such officers for the elections to the Legislative Assembly, Council, the city council and local boards and municipalities. To add to this, there are the watchers, who will be asked to watch from behind the slot. As I said before, we tried them in the 1947 elections, and from our experience we have to say, their presence there had an adverse effect on the psychology of the voter, wavering between the yellow box, red box and blue box, as he was always being watched by the watcher through the slot. Sometimes, voters are baffled by the watcher's presence behind the screen. Sometimes the watcher has also given information, how people have voted, whether in the yellow box or red box or blue box, more so, when the voters in a particular booth happened to be very few. This violates against the principle of secrecy of vote. Therefore we have thought fit to dispense with watchers. Sir, these are the main principles on which we want the opinion of the House.

" Sir, in conclusion, I am only hoping that we will have a good electoral system and thereby the opinion of the people will be truly represented in the Parliament or the legislature. For the legislature must be a mirror of popular opinion and not run counter to the opinion of the people. That must be guaranteed, for otherwise the people will get frustrated. I am particularly hoping because we have done away with reservation of seats for Muslims and Christians—because our Constitution does not think in terms of Muslims and Christians—I am anxious that no minority community or religious community should feel that their grievances are not even voiced by any representative in the legislature or that they have no chance of getting into Parliament, because they are a perpetual minority. I think it is the duty of all parties, whether Congress or any other, to see that they choose as their representatives persons not because they are Muslims or Christians but judge them by the service and sacrifices they have rendered to their community or to the country in securing freedom. Otherwise some

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of the minorities might feel a perpetual grouse or grievance which will not be very conducive to the proper working of democracy. Everybody must be satisfied. Everybody must feel that the Legislature and the Government that are functioning are his, even though he may belong to a political minority which is not in office. 3-30 p.m.

"While speaking in the debate on the Governor's Address, my hon. Friend, the Leader of the Opposition wanted that there should be fair elections. I do not know why people are talking about fair elections. Because somebody said something in Bombay, people are saying that the Government must ensure fair elections. The Bombay Convention went to the extent of saying that the Ministries, both in the Centre and the States, should resign before elections so that the Governor can have absolute powers and administer the country through civilians. I do not think the opposition parties in any other country have made such a suggestion. They have not shown that amount of distrust towards the Government. The Leader of the Opposition is always the potential Prime Minister of the State. If he puts forward popular policies, he is voted to power by the people. That is why he is always in the position of a potential Prime Minister of the State. He need not be nervous that the Government will be unfair to the opponents or that they will put obstacles in the way of fair elections. I do not think it has ever happened. I do not think the Congress ever complained that the Justice Party was unfair in elections when it was in office. Many members of the Congress Party were returned in the elections conducted during the Justice Party's regime. About twenty by-elections have taken place since 1946 and I do not think the Congress ever interfered with the polling arrangements or put impediments in the way of opposition candidates. In the municipal and district board elections, there were instances of a Congress candidate being defeated by a Communist or Socialist. I do not think in our State at least there has ever been any complaint that the Government or Government officers put any obstacles in the way of candidates opposing the party in power if they carried on propaganda in a legitimate manner. There is no use of saying that the Government should ensure fair elections. Fair elections are always assured and there is no use in reiterating this basic principle. Equal opportunities will be given to all candidates and nobody need be under any handicap. I think I have given a fairly elaborate historical retrospect of the electoral system.

"I am glad our Election Commissioner reminds me to speak about what has actually been done. So far I spoke about general principles. Now I will explain what has actually been done. This State will have 375 members in the Legislative Assembly and 75 members in the House of the People. It postulates that there will be one representative for every 145,000 people in the Assembly and 725,000 people in the House of the People. Five State Assembly constituencies go to make one House of People Constituency. Here I must explain how the population has been calculated. It is not based on the 1941 census; it is not based on what it is going to be in the 1951 census. The population is calculated in a rough and ready manner on a nation-wide scale after various calculations

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and approved by the President. They have taken the number of voters enumerated in 1948 and multiplied that figure by 2.09 and the product is supposed to be the population for this purpose. The population of some of the States like the Punjab and Bengal and some of the cities like Delhi and Calcutta has undergone a violent change. It does not go by the gradual increase of one per cent for every year. Originally we calculated on the basis that the increase in population would be one per cent for every year and the increase in population would be ten per cent between one census and the next. The population of Calcutta would have trebled or quadrupled and the population of Delhi will perhaps be five or six times of what it used to be. In the Punjab, especially in places like Amritsar and Ambala, a large number of people have migrated from and immigrated into Pakistan. Thus there have been violent changes in population. That is why they have adopted the method of taking the number of voters in a particular place and multiplying it by 2.09.

“ Sixty-one seats for Scheduled Castes and 12 seats for Scheduled Tribes have been reserved in the Madras Assembly and 5 seats for Scheduled Castes and 1 seat for the Scheduled Tribes have been reserved in the House of the People. Wherever there is a seat for the Scheduled Castes and a seat for the Scheduled Tribes, the two single-member constituencies will be clubbed together and the voters will be asked to elect one member for the general seat and one member for the reserved seat. That means the number of people in such a constituency will be not 145,000 but 290,000. The same position applies to the House of the People also. Wherever there is a seat reserved for the Scheduled Castes and a seat reserved for the Scheduled Tribes, the two constituencies will be clubbed together. The population of such a constituency will be not 725,000 but 1,450,000. The voters will be asked to elect one member for the general seat and one member for the reserved seat. We have proceeded on the principle of allotting the Harijan seats in those taluks where there is the largest Harijan population. In the Narasaraopet taluk of the West Godavari district, there is a large Harijan population and one seat has been allotted for the area. The second seat has been allotted for the taluks of Kovur and Polavaram where also there is a large Harijan population. That is the principle adopted in reserving seats for Harijans.

“ We could not keep the integrity of a taluk or even a Revenue division, because we have to satisfy the population strength of 145,000. But we have kept the district as a whole; we have not impaired the integrity of a district. The population strength need not be precisely 145,000. It may be 15,000 this side or that side. It does not matter if it is 130,000 or 160,000. We tried to keep the revenue firka at least intact. But where the revenue firka was large, we had to split it. Only in stray cases we split up the revenue firka.

“ These are the main principles. As I said in the beginning our proposals have been either already despatched to the Election Commissioner or are being despatched. He will publish the proposals and invite opinions. We are only acting as his agents. It is for

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him to accept or reject the proposals. We have formulated our proposals on the basis of the single-member constituencies. He may say that there must be plural-member constituencies and call for alternative proposals. If time permits—I am not quite sure—we may have an opportunity of considering the actual delimitation proposals. Just now we may confine ourselves to the resolution. I invite the opinion of hon. Members on the five points adumbrated in it."

MR. CHAIRMAN :—" The motion is—

' That this Council requests the Government to convey to the Government of India the following as the recommendations of this Council in regard to the delimitation of the constituencies of, and the conduct of elections to, (a) the Legislature of this State; and (b) the House of the People :

I. Delimitation of Constituencies.

(1) *Legislative Assembly of this State and the House of the People.*—Seats for Scheduled Castes and Scheduled Tribes should be reserved in plural-member constituencies with two seats each, one general and the other reserved for Scheduled Castes or Scheduled Tribes. All other constituencies should be single-member constituencies.

(2) *Legislative Council of this State.*—There should be not less than two seats in each constituency, with proportional representation with transferable vote.

II. Conduct of Elections.

(1) The coloured box system should be adopted.

(2) The boxes for the General and Reserved seats in plural-member constituencies should be kept in separate compartments in each polling booth.

(3) Watchers need not be appointed."

* SRI A. GOVINDACHARYULU :—" May I take it, Sir, that the proposals of the Provincial Election Commissioner in regard to the delimitation of constituencies in this Province, which will be sent by him to Central Government in due course will be placed before the legislature for discussion? "

3-45
p.m.

MR. CHAIRMAN :—" I think, the Hon. Minister has already told the House that the proposal as published by the Central Election Commissioner will be made available for discussion in this legislature if time permits. This Government are not going to do anything in the matter. It is the Election Commissioner in Delhi who is in charge of delimitation of constituencies in the various provinces who will formulate his proposals and send them to this Government and then if time permits they will be brought before this House for discussion. That is what I understand the Hon. Minister has said."

* SRI A. GOVINDACHARYULU :—" What I want to know is, whether the Madras Government would before simply giving

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their seal of approval to any proposals formulated by the Provincial Election Commissioner, bring them to the notice of the legislature. I want to know whether the legislature will be given an opportunity to have its say on those proposals."

THE HON. SRI B. GOPALA REDDI :—" Sir, as I have already said, the responsibility for the delimitation of constituencies entirely rests with the Election Commissioner. Under the Act, he can himself frame his proposals in consultation with the President and the State Governments need not be consulted at all. We simply want to assist the Election Commissioner by our suggestions in formulating his proposals. We have sent our suggestions and it is up to him to do whatever he chooses. But according to press reports, I find that he is releasing these proposals and inviting public opinion on the same. I think, a small committee consisting of seven members has been appointed by the Speaker of the Parliament of the Indian Union to scrutinize these proposals. That Committee may make their own suggestions in the light of public opinion and criticisms received by them. The whole thing will be placed before the President, in due course and I think we may do well to wait till the Election Commissioner's actual delimitation proposals are received by this Government. If time permits, I have no doubt, the House will be given another opportunity to discuss those proposals."

* SRI A. GOVINDACHARYULU :—" Cannot this Government place their recommendations before this House for discussion before they are submitted to the Central Election Commissioner? Should not this House be given an opportunity to discuss those proposals? "

MR. CHAIRMAN :—" What the Hon. Member wants apparently is that before the Madras Government send up their proposals to the Election Commissioner, the legislature should be given an opportunity to offer its opinion on those proposals."

THE HON. SRI B. GOPALA REDDI :—" I regret, Sir, it cannot be done. It is not as if we have been asked to formulate proposals and send them to the Election Commissioner for approval. The Election Commissioner has been giving us directives and consulting us on these matters from time to time. We too have been making our proposals and suggestions on his directions and in the light of these proposals and counter-proposals, something in the nature of a *via media* has to be settled. We are simply acting as their agents in this matter and it is not certain that our suggestions or proposals would be completely accepted by him."

JANAB K. T. M. AHAMED IBRAHIM :—" Are the Madras Government only the agents of the Central Government? Are we not an autonomous State? "

THE HON. SRI B. GOPALA REDDI :—" Sir, we have no *locus standi* in these matters. We have been simply asked by the Government of India to assist the Election Commissioner in this matter and we are helping him accordingly."

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* SRI A. GOVINDACHARYULU :—“ Could we not at least know when the proposals will be published by the Election Commissioner? And could not this Government inform the House what their recommendations are on those proposals? ”

THE HON. SRI B. GOPALA REDDI :—“ I do not think, Sir, it would serve any useful purpose to place our recommendations before the House, because we do not know whether they would be accepted by him or not. As I said, after he had finalised these proposals, he would naturally publish them and then this House will be given an opportunity to discuss those actual delimitation proposals if time permits. But to-day we are concerned only with the broad general principles as to what system of elections would be conducive to the best interests of this Province. Perhaps the Election Commissioner might revise his opinion in the light of our present discussions in this House. It is now too early to say anything in the matter, because the proposals have not taken any definite shape yet.”

SRI R. SURYANARAYANA RAO :—“ May I take it, Sir, that what the Hon. Finance Minister has stated just now in his speech are the views of the Madras Government and not his personal views? ”

THE HON. SRI B. GOPALA REDDI :—“ Yes, Sir. What I have stated just now only represents the views of the Madras Government. In fact, the resolution just now moved by me is sponsored as a Government Resolution and the views I have stated are my views as a Minister and I have not expressed them in my personal or individual capacity.”

* SRI A. GOVINDACHARYULU :—“ I suggest, Sir, that it is most important and necessary that the detailed proposals should be placed by the Government before the legislature for discussion. Otherwise how could anybody know our views on these proposals? ”

MR. CHAIRMAN :—“ Now let us come to the debate. Let me first call Mr. K. T. M. Ahmed Ibrahim to speak. Let him move his amendment and speak both on the Resolution before the House as well as on his amendment.”

JANAB K. T. M. AHAMED IBRAHIM :—“ Mr. Chairman, Sir, I move the amendment standing in my name, namely :—

“ In clause (1) of paragraph 1 of the resolution under “ Delimitation of constituencies ”, for the words “ single-member constituencies ”, substitute the words “ plural-member constituencies with at least five members each with cumulative voting ”.”

“ Sir, I am glad that I am encouraged by the speech of the Hon. Finance Minister who moved this resolution and dealt with the subject in a very frank and open manner. Sir, he conceded that the last word has not been said on the subject, that democracy in our country is in its infancy, and that we have to devise some means of giving effective representation for all the interests in the

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country. But, as a matter of fact, he has not devised any effective method for minority representation in the legislatures, though he has expressed the pious wish that the legislatures of the country must be a mirror, reflecting public opinion as otherwise certain sections of the population would get frustrated. He also added that in view of the fact that separate electorates had been abolished, he was anxious that no minorities should feel that they would have no chance of getting into Parliament. Surely, Sir, this is a laudable sentiment and a pious wish and I welcome it. He also conceded that minorities in this country are perpetual minorities and therefore he was anxious that they should not have a feeling of frustration that they have not been properly represented in the future Parliament. But unfortunately he has simply set his seal of approval on the present method of representation and he has not taken the trouble of finding out some other suitable method of giving effective representation to the various minority interests in the country. Sir, it is too late in the day to say that there are no separate interests in the country. There are various minorities now in the country whose interest would seriously suffer if they are not given separate representation. Now, Sir, for a democracy to succeed, the legislatures of the land should reflect faithfully the various shades of opinion and the various interests involved. As the Hon. Mr. Gopala Reddi himself said, they should not be a one-man's show and dominated by only one political party. The delimitation of constituencies is the very first and fundamental step in the establishment of democracy in the country. The constituencies should be delimited in such a manner as to return candidates representative of the various interests involved and no frustration should come upon any particular interest on account of non-representation. That is the stand-point from which this resolution should be examined.

"Now, Sir, I shall just quote one or two sentences from the two reports referred to by the Hon. Mr. Gopala Reddi. The Lothian Committee have dealt exhaustively with this subject in their report, and on page 145 of their report, they say :

'The history of democracy is filled with controversies over the method of representation. Adult franchise can secure equality in casting votes, but whether these votes are effective in securing representation in the legislature depends upon the system of representation employed.'

Therefore, Sir, even though we may be given adult franchise, it will be effective if proper representation is secured in the legislatures by a proper system of delimitation of constituencies. The Committee go on to say—

'The original practice of democracy was to provide for majority rule on the basis of the votes of the whole population voting as a single constituency, or in territorial constituencies containing as far as possible, an equal number of voters. It was not long however before minorities, religious, political, racial, or economic, claimed that the system of majority rule was unduly crude in its operation, and was unfair to important sections of the community having opinions or interests of their own, which, under the single-member constituency system, had no chance of securing direct representation in the legislature.'

Sir, I am glad to say that my Hon. Friend Mr. Gopala Reddi has also expressed the same idea at the end of his speech. He said that there should be no one-party show and that there must

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be proper representation of the various interests in the country and also expressed the wish that the Congress and the other parties functioning in the country should see that minority parties also get their proper representation in the legislatures. I must submit, Sir, that this mere wish would not satisfy the various minority interests. Minorities should not be made to depend on the whims and fancies and the caprices of the majority parties or the party in power which conduct the elections. The minorities must be secure of their representation whatever parties may run the show. Their representation should be secured to them as a matter of right. Otherwise, the minority interests would surely suffer, and it is quite possible, as has been mentioned by the Premier of the Uttar Pradesh Government that the minorities might not even be able to get an adequate number of members from among themselves for standing as candidates to the legislature. At present one or two party-leaders here and there might take some interest in the minorities and support their candidates in the elections. But will it be possible always and in all places? As my Hon. Friend, Mr. Gopala Reddi, himself said, there are perennial minorities in our province and when there are perennial minorities, there must be a perennial system of representation for them. A perennial minority should not depend on the whims and fancies of particular parties for their representation in the legislature. But, Sir, I am sorry to find that while he expressed such laudable sentiments and fine ideas, he has not himself given practical effect to them by devising a system of representation which is best suited for the minorities in this State. He has simply set his seal of approval to the existing system which does not guarantee any protection to the minorities from the unrestricted and tyrannical use of the democratic principle expressing itself by the majority votes.

" The main point he discussed was about plural-member consti- 4 p.m.
tuencies, and I can say at once that the Committee set up by the legislature of the Uttar Pradesh has conceded in principle that for Muslims and other minorities, there should be double-member constituencies. Mr. Pant has expressed clearly that if some chance is not given to the Muslims through these double-member constituencies there is no possibility of Muslims being elected to the legislatures. I am glad that this comes from one of the foremost Congress workers, and I do not know why our Government which is also a Congress Government have not given thought to this matter, but thought otherwise and insist on single-member constituencies.

" The Hon. Mr. Gopala Reddi stated the various points which he felt to be against the introduction of multi-member constituencies. First of all he stated that if there were multi-member constituencies we could not ascertain the wishes or the verdict of the people on any particular issue. I cannot understand that argument at all. Does he mean that there can be only one opinion in any constituency? Can there not be various shades of opinion in any constituency? The best way of ascertaining the opinion of any section of the people is to have multi-member constituencies so that we may understand what proportion of the people are holding a particular

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opinion and what proportion are holding a different opinion. Suppose there is a multi-member constituency containing five members. If three members are elected representing a particular political party and two members are elected representing another political party, that will show to a great extent what the state of public opinion is in that particular constituency. But if there is only one member to be elected from that constituency, we will have to conclude that that constituency is of one opinion. Therefore, the best way of ascertaining the verdict . . . (Interruption.) That holds good with regard to multi-member constituencies also. The better method of ascertaining public opinion is through multi-member constituencies. The Hon. Gopala Reddi referred to Dr. C. R. Reddi and Munuswami Naidu elected from the same constituency of Chittoor. One-half of Chittoor was for Congress and the other half was non-Congress. That is the way to ascertain real public opinion, and not by having single-member constituencies, and not by saying that Mussolini avoided party system. That will lead us only to Nazism.

"The next point that he said against multi-member constituencies was that it was the simplest system, and our electors being illiterates, they could not be expected to understand the full implications of multi-member constituencies, and the voters might not know whether this or that vote would be proper. Since it is the simplest system and since the voters are illiterates, I am anxious that they should not be swayed by slogans and sentiments, and by methods of corruption. If the electorate is small, there is the probability also of the candidates approaching them individually and having things done by means fair or foul. If the electorate is large, then it will be impossible for the candidates to approach the electors. Therefore they will be able to cast their votes as they liked. Otherwise there is the possibility of simply being carried away by slogans, sentiments, personalities, etc. If there is plural-member constituency, it will be of course difficult. This question of corruption cannot prevail there. The only point is that candidates must educate the electorate in the proper manner. There can be no contact. The same thing was mentioned by both Hammond and Lothian in their reports. They point out the defects of the single-member constituencies, and they are for multi-member constituencies. They have given various reasons. The Hon. Minister stated that if there were multi-member constituencies, then nobody would be responsible to the electorate, and it became a no-man's constituency. The position is quite the reverse. All the members will be jointly and collectively responsible to the electorate, and further, there will be the spirit of competition among the various candidates to do the maximum good to the electorate. That spirit of competition will be eliminated if it were only a single-member constituency, and after election, the candidate may simply ignore the electorate. But in the matter of multi-member constituencies, there will be competition. (Interruption.) In multi-member constituencies, each one of the candidates will try and see that he does good to the electorate much more than the other candidate. That spirit is ruled out in the case of single-member constituencies."

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MR. CHAIRMAN :—" Five members from a constituency will prove the saying that too many cooks spoil the broth."

JANAB K. T. M. AHAMED IBRAHIM :—" It is so much the better, because all the electors can go to them and see that the remedy is effected. Since our land is a democratic republic, and is in its infant stage, we must take all steps to develop the party system. It is for that system that proper methods should be devised for the representation of minorities in the legislatures. If it is run only on single-member constituencies, there is no doubt that the majority will dominate the elections, and the minorities may not get adequate representation in the legislatures. In this matter I am fortified by the opinion of no less a person than Pandit Pant. It is for that purpose we must see that the perpetual minorities are given proper representation not through the whims and fancies of any particular party or through small mercies shown by any particular party, but as a matter of right they must get these things. If the constituencies are only single-member constituencies, they will by their very nature be small, with the result that local prejudices and local factions will play a great part in the election of representatives. But if the electorate is wider as in the case of plural-member constituencies these local prejudices may not have such a dominating voice, and the outlook will be less narrow. There will be broader choice and the electors will have the right to vote for the candidates of their own choice.

" The Hon. Mr. Gopala Reddi has been again and again repeating that the opinion of the Lothian Committee and the opinion of the Hammond Committee have been set aside by the vote of the Legislative Council twice. Well, Sir, in that connexion I wish to draw the attention of the House to the important considerations on which these two verdicts of the Legislature were given. At that time, the House had to deal with the representation of the majority community alone. The minorities—Muslims and Christians—had their own separate electorates. Therefore, the minorities question was not before them then. They were only concerned with the representation of the majority community. In such cases should there be multi-member constituencies? They decided that no multi-member constituencies were necessary, and they did not want to perpetuate caste and sub-caste system. Now the whole basis is gone. Muslims and Christians are in the State. (Interruption by the Hon. Sri B. Gopala Reddi.) Still you are Mr. Gopala Reddi and I am Ahmed Ibrahim. We have to face realities. There is no use of ignoring realities. If you ignore realities' . . . "

MR. CHAIRMAN :—" Both of you are Indians!"

JANAB K. T. M. AHAMED IBRAHIM :—" We are Indians, but still the voters will know us from our names. The system of majority rule was unduly crude in its operation. The Lothian Committee says that there will be no chance of getting representation for these minorities in the legislature. If the minorities are ignored, in the words of the Hon. Mr. Gopala Reddi himself, there will be frustration among the minorities. Is he prepared to face this

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frustration? When once the question of plural-member constituencies is granted, cumulative voting goes with it. I shall here read certain portions from the reports of these two committees. Both these committees feel that in order to ensure representation to minorities there must be plural-member constituencies with cumulative voting. (Interruption.) England is different from India. In England there are no perpetual minorities as in India. They are more educated. We have illiterate voters. We are swayed by slogans and sentiments. Then again, what is the percentage of literacy there? There each elector understands the foreign policy of the Government." (Interruption by the Hon. Sri K. Madhava Menon.)

MR. CHAIRMAN :—" Let there be no conversation."

THE HON. SRI K. MADHAVA MENON :—" Interjections are allowed even in Parliament, Sir."

MR. CHAIRMAN :—" I only said ' conversation '."

JANAB K. T. M. AHAMED IBRAHIM :—" With regard to cumulative voting, the Lothian Committee says—

' 369. In multi-member constituencies we recommend the use of the cumulative vote An alternative method in multi-member constituencies is to use the restrictive vote, a system under which, the voter has the right to use one vote only. We prefer however the wider opportunities given by the method of cumulative vote. The elector can exercise his discretion how he will distribute his votes and is given the opportunity of exercising a broader choice and not reserving his attentions solely to those of his caste or creed, if he so desires. It therefore gives a less narrow outlook to the voter and renders the divisions in the community less stereotyped.'

" The Lothian Committee's Report is the reverse of what the Hon. Mr. Gopala Reddi says. The Lothian Committee says—

' It gives him no less opportunity than the restrictive method to concentrate his votes upon the candidate of his choice. It is not so simple as the other method though the results may be said more exactly to represent the wishes of the electorate.'

4-15 p.m. " The Hammond Committee Report says on page 13 as follows :—

' The two-party system is not yet established in this country and voting takes place largely on personal or communal considerations. Small sections of the population can, therefore, have practically no chance of returning a representative of their choice unless more than one seat is allotted to a constituency. Even large and important sections of the population for whom special representation has not been provided, might go unrepresented if a district is subdivided into several small electoral areas and their strength is distributed. Also, with single-member constituencies, candidates with a merely parochial outlook and of relatively inferior type are likely to be returned and though it is possible to some extent to provide against this danger by dispensing with the requirement that a candidate should actually reside within his constituency, it is very doubtful whether, in actual practice, electors would generally favour outsiders as their representatives.'

So, Sir, it is in the multi-member constituencies that wider outlook, national outlook, is guaranteed better than in single-member constituencies. The Hammond Committee are definitely of opinion that multi-member constituencies will give effective proportional

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representation to the minorities. Otherwise, they may go unrepresented and the evils of democracy will go unmitigated. They will have to bear the tyranny of the majority and be at their tender mercies.

“ At the time when the Legislature of this State decided against this report, the Muslims and the Christians had separate electorates. We dealt with only the majority communities. Therefore, it should not stand in the way of considering afresh the necessity of introducing plural-member constituencies with cumulative voting.

“ With regard to the voters' list, I do know that it is being prepared. I have been receiving complaints from several areas that whole blocks of voters have been omitted. The enumerators did not go to those areas at all.”

THE HON. SRI B. GOPALA REDDI :—“ The people could have gone and given their names and they would have been included.”

JANAB K. T. M. AHAMED IBRAHIM :—“ When the people in the locality approached them, they said that they might wait till the preliminary rolls were published and then they could give their names.

“ It is good that the system of appointing watchers is abolished, because it is interfering with the secrecy of the ballot box and we have been feeling that it is a very great evil in elections.

“ In view of the fact that the Mover of the Resolution himself has expressed his anxiety that all minorities should get proper representation in the Legislatures of the country and there should be no frustration, I appeal to him to consider the points I have mentioned, with an open mind and see whether, in the interests of proper development of party system and of creating contentment and satisfaction among the various minorities in the land, it is not necessary to accept my amendment. Let the proposal be given a chance. In the absence of separate electorates and reservation of seats, this is the only method by which the minorities can get representation in the Legislatures. It is, of course, possible that the majority party may put some men of the minority community into the Legislature. But no such imagination can be made. I want that the wishes of the minorities must be properly expressed in the Legislatures, so that the majority community and also the Government may know the actual grievances, needs and requirements of the minorities and may try to mitigate their troubles. If the minorities have not got their own representatives, it is quite possible that the Government may not be able to understand their viewpoints. It is only for that purpose that I want proportional representation to the minorities.

“ I see the Government have sent up their proposals to the chief Election Commissioner before placing them before this House and getting the opinion of this House. Therefore, I request that the proceedings of this House may be communicated to him, so that he may understand the views of the Members of this House.”

JANAB K. UPPI :—“ I second the amendment, Sir.”

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JANAB ABDUL LATIF FAROOKHI :—“ Mr. Chairman, Sir, I am very thankful to the Hon. the Finance Minister for his very good and informing speech. But this is a new experience for us. Therefore, it will take some time for us to digest these principles. In spite of the careful manner in which the Finance Minister has put forward his views, there is one thing which agitates the minds of the people and that is that this Government do not act according to the principles of democracy. The hon. Gentleman, Mr. Govindacharyulu, was right when he suggested that this House ought to have been taken into confidence before proposals were formulated on the question of delimitation of constituencies. The Hon. the Finance Minister said that they did not want to give publicity. If we look up Parliamentary procedure, we know that in certain cases at certain times even the House of Commons goes into secret sessions. Similarly, both the Houses of this Legislature could have gone into secret session and proposals might have been placed before them. If the Government are not going to take the representatives of the people into confidence and if they place their own proposals before the chief Election Commissioner or before the President of the Republic, I would say that it is a negation of democracy. We are not concerned with the Election Commissioner, however great his powers might be. It is this Government that send the proposals. This Government are responsible to this Legislature and it is this Legislature that wants this Government to place their proposals before it. It is not our concern whether the proposals of this House are accepted by the Election Commissioner or whether they are finally accepted by the President of the Republic. Our concern is that this Government have failed in their duty in not having placed their proposals before this House. Therefore, it is a matter for regret that this Government who call themselves a Popular Government should have gone against the very principles of democracy which they advocate. I think it is not even now too late to remedy it. The Finance Minister is not bound by the verdict of the Election Commissioner. He is not the head clerk of the Election Commissioner. He is an independent Minister responsible to this Legislature. (Interruption.) He may feel that he is not independent. But I do not share that pessimism. It is his duty to assert his right. Whatever the Election Commissioner, or the President, for whom we have great respect, may say, have we not got the right to express our views? We do not say that those views must be accepted. What we say is that the Government must have taken both the Houses of the Legislature into confidence before they submitted their proposals to the Election Commissioner.

“ It is indeed a matter of pride for us that we are now in a Republic. Our Republic is a new-born Republic. Our Constitution is a novel one which may perhaps be copied by many other countries in future. Our Constitution has given us very many privileges and rights. Now it lies on us to interpret the Constitution. We, the representatives of the people, and the Government are the persons who have to interpret the Constitution. I feel we have been denied

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the right to express our views before the proposals of the Madras Government were formulated and sent to the Election Commissioner. If they had been placed before us, we would have given the Government our concrete suggestions."

THE HON. SRI B. GOPALA REDDI :—" The House will have an opportunity to discuss them."

JANAB ABDUL LATIF FAROOKHI :—" The opportunity will come when it is too late. Perhaps after the proposals have been formulated and placed before the Election Commissioner and accepted by the President, they will come before the House for discussion. I am subject to correction, Sir.

" What I want is that before the President of the Republic pronounces the final word, he must know what the views of this Legislature are."

MR. CHAIRMAN :—" I suppose the point of the Leader of the Opposition is that this Government should send up the proposals of the Members of this House and their proposals also and not their individual proposals."

JANAB ABDUL LATIF FAROOKHI :—" Yes. Thank you, Sir. This Government should have sent their proposals after consultation with the representatives of the people.

" It is therefore against the spirit of democracy to formulate proposals and send them secretly without the knowledge of the Legislature, to the Government of India." 4-30 p.m.

THE HON. SRI B. GOPALA REDDI :—" Does the hon. Member want that no communication should be addressed to the Government of India without the knowledge of the Legislature? "

JANAB ABDUL LATIF FAROOKHI :—" I do not wish that you should inform this House with regard to administrative matters. But here is a matter which is connected with the Constitution and with the rights of the people and there is nothing secret about it. This is a matter in which you should have consulted the Legislature beforehand. I do not for a moment suggest that you should take our consent in all matters. There are certain matters which will be your exclusive concern and in which you will have to deal with the Government of India direct. I have no quarrel with you in such matters and I do not dispute your right regarding those matters. But, so far as the subjects of delimitation of constituencies and election procedure are concerned, I submit that the Government ought to have placed their proposals before the Legislature and then sent their proposals. These must have been thoroughly discussed by the Legislature and the Legislature should have given its support and consent to Government measures. Then only the Government views can be said to be the State's considered views. Now you have sent the proposals without the support of the Legislature. So, I do not agree with the Hon. Finance Minister in this respect.

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"With regard to adult franchise, I have given more than once my own misgivings. Though I am generally in favour of this, I would say that adult franchise will have no meaning in the present circumstances. What is the use of asking anybody and everybody who is 21 years of age to go to the polls without knowing what an election is and to whom he is voting and all that. Then the question of education comes in. I do not want to enter into that subject just now. Anyhow, I want to urge upon the Government that they must deal with this problem very carefully and delicately. In this matter, I would agree with the Hon. Finance Minister, or rather I would wish him to agree with me when I say, that a list will be prepared by any party that has got its ear towards the public containing the names of about 375 representatives or so and the people will be told 'Well here are your representatives. You add your tick marks to these gentlemen'. That would be the state of affairs in adult franchise. People will not know for whom they are voting.

"Coming to the ballot system, i.e., the coloured box system, I would like to say that as far as my experience goes, this system has proved to be a hopeless failure. Quite recently, i.e., about a year back, when I was returning from a City Municipal Election booth, I was taking some voters along with me to their homes."

MR. CHAIRMAN :—"That is usually not done."

JANAB ABDUL LATIF FAROOKHI :—"I agree that it is generally not done. But some of these people were taken by car to the polling booth by the concerned parties, but after these people have put their votes, there was nobody to take them back to their homes and were stranded. So when I returned from the booth, I took some of them. On our way I asked them for whom they put their votes. They told the colour of the box and also the name of the person for whom they voted. To my surprise I found that the coloured box which they mentioned was not the one intended for the person they mentioned. Presumably these people were misled by the agents of the other candidate. So these people put their votes into the wrong box thinking that they were voting for the correct person.

"Again, there is the watcher system. I am glad that the Hon. Minister has told us that the Government wanted to do away with this system. If you want to do away with this system, how are you justified in having these colour boxes. In my opinion, the best way of voting is the marking system. How can you say that they will not be able to get along with this ticking system when you are proceeding on the assumption that they will be all literates. (Voices : 'It is not based on literacy.') Literacy may not be compulsory. But what is the meaning of adult franchise without it. Are you going to give the right of voting to persons who do not know for whom they are voting. (An hon. Member : 'That is what they are going to do.') If they did it, I say that it is contradiction. You must give the power of voting only to those who know for whom they are voting and for what purpose they are voting. It is

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only when they know these things, they can select the right kind of representatives. It is no use saying to these people, 'Well, go to the polling booth. Put your vote in the coloured box mentioned by us'. If this is done, I am sure the right type of people will not be returned to the Legislature. People who have done some little service to the country and who know something of administration should be elected by the voters. The real masters of the country are the general public, I mean the voters. I will never like my master to be an ignorant fellow, but would like him to know at least for whom he is voting, whom he is sending to the Legislature, and what sort of work that man would be able to do. Therefore I proceed on the assumption that adult franchise means adult education. Without adult education, there is no meaning in having adult franchise. So, I am opposed to the coloured box system.

"The Hon. Finance Minister said something about plural constituencies or multiple constituencies with regard to the scheduled castes and the scheduled tribes. He has conceded a certain principle that the constituencies will be clubbed together for the tribal people. That means to say that he knows or perhaps feels that these constituencies clubbed together will elect two representatives and so, that will be a wider franchise and people will have opportunities of being elected. He also said that in certain places where a certain class of people or a certain community of people are in a majority, they can have that as their constituency. He said that if Harijans were in a majority in a particular place, they will have a constituency. I would humbly request that the same principle may be extended to other cases also."

THE HON. SRI B. GOPALA REDDI:—"If the Constitution does not permit it, what shall we do?"

JANAB ABDUL LATIF FAROOKHI:—"Our Constitution approves of double constituencies or plural constituencies for depressed classes and Harijans. I do not question the correctness or validity of the Constitution Act. But personally I am opposed to reservation for anybody—be it Christians, Muslims or Scheduled Castes. If you want to do away with separate electorates, there is no meaning in having reservation of seats. These reserved seats are only intended to bring in such people as will be amenable to their own behests and who will be subservient to them. I am not speaking of any particular party in this connexion. My point is that any party that seeks to have reserved seats would bring in only such people as will be amenable to them so that they can have the whole monopoly in the Legislature. After all what is the fate of these reserved seats? Suppose a Harijan stands for election to a reserved seat. What will be his position? Are we not able to understand it or have we not understood it in the past? In the last elections, the Congress was in a majority. So the candidate set up by the Congress for one of these reserved seats was declared elected. (Interruption.) After the advent of independence, after the advent of democracy and after the establishment of the Republican form of Government in the country, there is no use of having separate electorates."

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MR. CHAIRMAN :—“ I think the hon. Leader of the Opposition is straying away from the main point. I think I can give him some argument to support his case. His point, I suppose, is that the Constitution does provide for plural constituencies.”

JANAB ABDUL LATIF FAROOKHI :—“ What I want to say is that there is no use of having reservation of seats.”

MR. CHAIRMAN :—“ Why should you worry about that especially when there is no objection according to the Constitution to have plural constituencies? ”

JANAB ABDUL LATIF FAROOKHI :—“ I am thankful to you, Sir, for your kind elucidation. Of course, there is no objection to plural constituencies. But my point is that all persons must be enabled to stand for election by their own efforts and with the confidence of the masses, and without the fear or favour of the political party that may be in power. For instance, in a particular constituency where Muslims have got some considerable votes and where the non-Muslims have also got considerable votes, you should allow the Muslim candidate to stand from that constituency, so that he could, through the votes from his own community as well as of other communities, be elected without any favour from any party or community. The only thing that will be required for him is the confidence of the people.”

MR. CHAIRMAN :—“ What happens in a plural constituency where two Hindus and a Muslim stand? ”

JANAB ABDUL LATIF FAROOKHI :—“ I have that experience also in connexion with the municipal elections, where a Muslim and a Hindu candidate were elected.”

MR. CHAIRMAN :—“ That does not necessarily follow always. It may be that both the Hindus might be elected.”

JANAB ABDUL LATIF FAROOKHI :—“ I agree that may also be the case. But there is also a possibility of a Hindu and Muslim being elected. I do not want that anything specific should be insisted upon. What I said is that there is a possibility of the minority communities also getting themselves elected by such a method. In cases where they do not get elected, I have no grievance at all. I would impress upon the Hon. Finance Minister to place this point of view before the Election Commissioner.”

THE HON. SRI B. GOPALA REDDI :—“ Does the hon. Member want cumulative voting or distributive voting? ”

4-45
p.m.

JANAB ABDUL LATIF FAROOKHI :—“ I do not mind whether it is cumulative voting or distributive voting. I would agree to anyone of the two. My submission is that a certain system and procedure should be evolved by which there will be a possibility of the members of the minority communities coming through general elections, into the Legislature, without any favour from the party in power or the party that may have the majority of votes. To-day it is the Congress Government that is in office. On one point I

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want to be very plain and I hope that I am voicing the feelings of a majority of the Muslim community. (Interruption.) Whatever may be our differences of opinion, I am prepared to throw a challenge and to face any audience and say that the view of the majority of the Muslim population is that the Congress is a much better party on which they can depend but, if any other party comes, they have their own misgivings. We are sure that so long as the Congress is in power, they will give some seats to the minority communities. But we do not know how long they are going to be here. There is no guarantee. Other parties may come into power. Therefore, a system that would automatically ensure protection to minorities should be evolved. It is for this reason that I advocate plural constituencies. If there are plural constituencies there will be a possibility of the minorities being returned. After all, the Government will not lose anything by having these. If a Christian is put up along with a Hindu or if a Harijan is put up along with a Hindu, there is every possibility of the Christian or the Harijan or a Muslim, if one is put up, to be returned with the support of people belonging to the mixed constituencies. So far as minorities are concerned, let them understand it that unless we mix up freely with others and become common citizens our position will be at stake. What will happen if an election were to take place now? The position will be the same unless we have a certain amount of confidence in the majority community. It is no use a few Harijans, a few Christians and a few Muslims sit in the Council or the Assembly. That will not help at all. We cannot blind ourselves to these facts. Our eyes cannot be closed. It is, therefore, that I have proposed in my amendment—I am sorry, I did not read out my amendment to the House when I began to speak on the Motion—that all the constituencies should be multiple, each consisting of a population of at least 2 lakhs and represented by two members. I have also proposed that the colour box system should go and X mark system should be adopted. I think if the Government take a reasonable view, if the Government are not adamant and if they do not stand on what is called 'prestige', they can very well accept my amendments. I would go a step further and say that I shall not be much worried even if they are not accepted by the Government. It would suffice if the Government give an assurance that these proposals will be kept in view at the proper time so that a reasonable representation may be vouchsafed for the minorities.

"Sir, I would now come to the conduct of elections. My Hon. Friend, the Finance Minister, said that nobody ever tampered with elections. Sir, my own experience is—I would request the Finance Minister to pardon me—that there has been very much tampering in certain places and I have myself been once a victim of such tampering. In the year 1934"

THE HON. SRI B. GOPALA REDDI:—"At least the Congress Party had no difficulty in fighting elections when the Justice Party was in power in spite of their occupying office."

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JANAB ABDUL LATIF FAROOKHI :—" I am not concerned with the Congress Party or the Justice Party or the bureaucratic party which is gone. I am speaking of things in general. I say that the Government should place sufficient safeguards to ensure fair elections . . . "

DR. A. LAKSHMANASWAMI MUDALIYAR :—" May I request the Leader of the Opposition to enlighten us as to how elections were tampered with? "

JANAB ABDUL LATIF FAROOKHI :—" I am thankful for the interruption. (Laughter.) I stood for election to the Central Assembly in 1934. In 1926 also I stood for election when I had four rival candidates and I won the election polling many more votes than were polled by all the other candidates put together. But in the later election I was defeated by five votes. I then opposed the Congress candidate—Mr. Umar Ali Sahib. The reason for my defeat was that one of the ballot boxes was sent away from one constituency to another. And even during polling I had to intervene on several occasions when the polling officer was inclined to show favour to a particular candidate. I had to protest and make representations to higher quarters. The box which was sent away to another constituency contained eight votes for me and all of them were declared invalid. I then had to make an election petition to His Excellency the Viceroy by paying Rs. 1,000 . . . "

THE HON. SRI B. GOPALA REDDI :—" What was the result? "

JANAB ABDUL LATIF FAROOKHI :—" I had to point out where my box went. I was a candidate representing the whole of Andhra and Ceded Districts . . . "

MR. CHAIRMAN :—" I would request the hon. Member not to show his back to me and speak. (Laughter.) Is it his case that the box was sent to another constituency by design? "

JANAB ABDUL LATIF FAROOKHI :—" That is what I felt and even now feel. (Laughter.) I still feel that the invalid votes should have been taken into account while announcing the result. I made several protests and yet nobody would listen to them. Everybody turned a deaf ear. There were as many as 600 polling stations . . . "

DR. A. LAKSHMANASWAMI MUDALIYAR :—" May I submit, Sir, that according to the hon. Member he polled more votes than were polled by all his four rivals put together in the 1926 election and that in 1934, even if he had won, he would have won only by three votes? Does it not clearly show that the hon. Member did not enjoy the same confidence in 1934 as he did in 1926? " (Laughter.)

JANAB ABDUL LATIF FAROOKHI :—" I won by a sweeping majority in the first election because votes were divided . . . "

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MR. CHAIRMAN :—“ As the hon. Member says, there were as many as 600 polling stations and so it is possible that one box may be sent to a particular place by mistake. Why should he say it is by design? ”

JANAB ABDUL LATIF FAROOKHI :—“ I could understand such wrong despatch had I not had occasion to witness the behaviour of the polling officers towards particular candidates . . . ”

THE HON. SRI B. GOPALA REDDI :—“ How can the Government help it? The polling officers will always be there. ”

MR. CHAIRMAN :—“ Polling officers will be there always. The only point to be considered is, ‘do we expect any democratic Government of the present day to openly or surreptitiously tamper with elections.’ Is it not reasonable and fair to examine whether such things take place in any part of the world where during elections one of the rival parties is in power, and whether such an interference proved detrimental to the interests of other parties? ”

JANAB ABDUL LATIF FAROOKHI :—“ I do not blame the Government. I want them to give proper guidance to the people . . . ”

MR. CHAIRMAN :—“ That they will surely. ”

JANAB ABDUL LATIF FAROOKHI :—“ I do not say that the Government will wilfully tamper with elections. What I want them to do is, they should instruct their subordinate officers who happen to be polling officers that they should not take sides. Recently a conference of all parties in opposition to the Congress was held in Bombay which has sent in a representation to the Government of India asking for fair elections. The parties in conference did not think that the Hon. the Prime Minister of India would stoop to such a low level of tampering. But they feared that instructions given by the Government would not be properly carried out by the polling officers. That is why they waited in deputation on the Prime Minister . . . ”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Sir, I am sorry to interrupt my hon. Friend. May I invite his attention to Article 324 (6) of the Constitution which says :

‘The President, or the Governor or Rajpramukh of a State, shall, when so requested by the Election Commissioner, make available to the Election Commissioner or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).’

So, it is obvious that the Government does not come into the picture at all. It is the duty and the responsibility of the Governor of the State to make available to the Election Commissioner such staff as is required. All statement about the polling officers made by my hon. Friend is unfair. The question of polling officers acting at the behests of the Government will not therefore arise. ”

JANAB ABDUL LATIF FAROOKHI :—“ I know what the Governor is in the present set-up. He acts on the advice of the Ministers and therefore, I say that they must guide the Governor

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properly (laughter). Sir, I have heard the speech of the Finance Minister and it was very graceful and very informing. I would now request him to accept my amendments."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" Sir, I second the amendments."

MR. CHAIRMAN :—" As there are many members to speak discussion on the motion will be continued to-morrow. The House will now adjourn to meet at 2-30 p.m. to-morrow."

The House then adjourned.

VII.—PAPERS LAID ON THE TABLE OF THE HOUSE.

1. *Appropriation Accounts, 1947-48 and the Audit Report, 1949, and corrections to the Appropriation Accounts, 1947-48 and Audit Report, 1949.*

2. *Finance Accounts, 1947-48 and the Audit Report, 1948.*

3. *Bills passed by the Assembly and received therefrom in the Council—*

(1) *The Madras Weights and Measures (Amendment) Bill, 1950.*

(2) *The Dangerous Drugs (Madras Amendment) Bill, 1950.*

(3) *The Andhra University Amendment Bill, 1950.*

(4) *The Indian Criminal Law (Madras) Amendment Bill, 1950.*

(5) *The Legal Practitioners (Madras Amendment) Bill, 1950.*

வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

7th August 1950]

APPENDIX I.

[Vide item V on page 92 supra.]

A Bill to amend the Madras Weights and Measures Act, 1948.

(As passed by the Assembly.)

Madras Act
XXII of
1948.

WHEREAS it is expedient to amend the Madras Weights and Measures Act, 1948, for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Madras Weights and Measures (Amendment) Act, 1950.

2. In the Madras Weights and Measures Act, 1948, after section 20, the following section shall be inserted, namely :—

Insertion of
new section
20-A in
Madras Act
XXII of
1948.

“ 20-A. During a period of two years commencing on the date with effect from which the provisions of this Act other than section 1 are applied to any areas in the State—

Sections 8, 9
and 20 not
to apply to
the pagoda
weight

(i) nothing contained in section 8 shall, in such area, apply to the pagoda weight, that is to say, a weight equivalent to 54.79 standard grains, or to any weighing instrument calibrated with reference to such weight; and

(ii) nothing contained in sections 9 and 20 shall be deemed to prohibit the use or possession in such area, of such pagoda weight or weighing instrument, for the purpose of transactions or dealings in, or contracts relating to, gold or silver.”

APPENDIX II.

[Vide item V on page 96 supra]

A Bill further to amend the Dangerous Drugs Act, 1930, in its application to the State of Madras.

(As passed by the Assembly.)

Central Act
II of 1930.

WHEREAS it is expedient further to amend the Dangerous Drugs Act, 1930, in its application to the State of Madras, for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. (1) This Act may be called the Dangerous Drugs (Madras Amendment) Act, 1950.

Short title
and exten.

(2) It extends to the whole of the State of Madras.

Central Act
II of 1930.

2. In sections 29 and 30 of the Dangerous Drugs Act, 1930, for the words “Excise Department”, the words “Excise or Prohibition Department” shall be substituted.

Amendment
of sections
29 and 30,
Central Act
II of 1930.

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APPENDIX III.

[Vide item V on page 96 supra]

A Bill further to amend the Andhra University Act, 1925.

(As passed by the Assembly.)

WHEREAS it is expedient further to amend the Andhra University Act, 1925, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Andhra University (Amendment) Act, 1950.

Amendment of Madras Act II of 1926.

2. In the Andhra University Act, 1925 (hereinafter referred to as the said Act)—

Madras Act II of 1926.

(i) in section 18, under the heading "Class II—Other Members", in clause (3), for the words "one shall be a person recommended by the Maharaja Saheb of Jeypore", the words "two shall be persons recommended by the Maharaja Saheb of Jeypore", and for the words "a person shall be so nominated on the recommendation of the Maharaja Saheb" occurring in the proviso, the words "two persons shall be so nominated on the recommendation of the Maharaja Saheb" shall be substituted;

(ii) in section 19-A, in clause (4), for the words "the member nominated to the Syndicate on the recommendation of the Maharaja Saheb of Jeypore", the words "a member nominated to the Syndicate on the recommendation of the Maharaja Saheb of Jeypore" shall be substituted.

Temporary Amendment of section 18, Madras Act II of 1926.

3. Until the reconstitution of the Syndicate next after the commencement of this Act, or if before such reconstitution one of the four members of the Syndicate who were nominated by the Chancellor otherwise than on the recommendation of the Maharaja Saheb of Jeypore or his successors vacates office, until the date on which such vacancy occurs, clause (3) under the heading "Class II—Other Members" in section 18 of the said Act shall have effect as if for the words "five persons" occurring therein, the words "six persons" were substituted.

APPENDIX IV.

[Vide item V on page 97 supra]

L.A. BILL No. 17 OF 1950.

(As passed by the Assembly.)

A Bill further to amend the Indian Criminal Law Amendment Act, 1908, in its application to the State of Madras.

WHEREAS it is expedient further to amend the Indian Criminal Law Amendment Act, 1908, in its application to the State of Madras, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Central Act XIV of 1908.

Short title and extent.

1. (1) This Act may be called the Indian Criminal Law Amendment (Madras) Act, 1950.

(2) It extends to the whole of the State of Madras.

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Central Act
XIV of
1908.

2. In section 15, sub-section (2), of the Indian Criminal Law Amendment Act, 1908 (hereinafter referred to as the said Act), for clause (b), the following clause shall be substituted, namely :—

Amendment
of section 15,
Central Act
XIV 1908.

“(b) which has been declared by the State Government by notification in the Official Gazette to be unlawful on the ground (to be specified in the notification) that such association—

- (i) constitutes a danger to the public peace, or
- (ii) has interfered or interferes with the maintenance of public order or has such interference for its object, or
- (iii) has interfered or interferes with the administration of the law, or has such interference for its object.”

3. For section 16 of the said Act, the following sections shall be substituted, namely :—

Substitution
of new
sections for
section 16,
Central Act
XIV of 1908.

“16. (1) A notification issued under clause (b) of sub-section (2) of section 15 in respect of any association shall—

Procedure
for issue of
notification
declaring
association
to be unlaw-
ful.

(a) specify the ground on which it is issued, the reasons for its issue, and such other particulars, if any, as may have a bearing on the necessity therefor; and

(b) fix a reasonable period for any office-bearer or member of the association or any other person interested to make a representation to the State Government in respect of the issue of the notification.

(2) Nothing in sub-section (1) shall require the State Government to disclose any facts which it considers to be against the public interest to disclose.

16-A. (1) After the expiry of the time fixed in the notification for the making of representations in respect of the issue thereof, the State Government shall place before an Advisory Board constituted under sub-section (2) a copy of the notification and also of the representations, if any, received before such expiry.

Reference to
Advisory
Board and
cancellation
or modification
of notifi-
cation.

(2) The State Government shall, whenever necessary, constitute one or more Advisory Boards; and each such Board shall consist of three persons who are, or have been, or are qualified to be appointed as, Judges of the High Court, and one of them shall be its Chairman. The Chairman and the other members of each Board shall be appointed by the State Government.

(3) The Advisory Board shall, after considering the materials placed before it and, if necessary, after calling for such further information as it may deem fit from the State Government or from any office-bearer or member of the association concerned or any other person, submit its report to the State Government.

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(4) The report of the Advisory Board shall specify in a separate part thereof its opinion or that of the majority of its members as to whether or not there was sufficient cause for the issue of the notification in respect of the association concerned.

(5) Nothing in this section shall entitle any person to attend in person or to appear by any legal representative in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part thereof in which its opinion or that of the majority of its members is specified, shall be confidential.

(6) In any case where the Advisory Board or a majority of its members has reported that there is no sufficient cause for the issue of the notification in respect of the association concerned, the State Government shall cancel the notification in respect of such association."

Amendment
of section
17-A,
Central Act
XIV of 1908.

4. In section 17-A of the said Act, after sub-section (2), the following sub-sections shall be inserted, namely :—

"(2-A) Any person aggrieved by a notification issued under sub-section (1) in respect of any place may, within thirty days from the date on which such notification is published in the Official Gazette, apply to the District Judge of the district in which such place is situated, or if such place is situated in the Presidency-town, to the Chief Judge of the Small Cause Court, for a declaration that the place has not been used for the purposes of any unlawful association and if such District Judge or Chief Judge makes such declaration, the State Government shall cancel the notification in respect of the place.

(2-B) In disposing of an application under sub-section (2-A), the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims so far as it can be made to apply ; and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final."

Central Act
V of 1908.

Amendment
of section
17-F,
Central Act
XIV of 1908.

5. In section 17-F of the said Act, for the words, figures and letters "save as provided in sections 17-B and 17-E", the words, figures and letters "save as provided in sections 17-A, 17-B and 17-E" shall be substituted.

Saving.

6. (1) All notifications issued in respect of associations by the State Government before the commencement of this Act under section 16 of the said Act and not cancelled before such commencement shall, as from such commencement, have effect as if they had been issued under section 15 (2) (b) of the said Act as amended by this Act :

Provided as follows :—

(i) In the case of every association to which any such notification applies, the State Government shall issue

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a supplementary notification as soon as may be after the commencement of this Act, specifying the ground, the reasons and the particulars, if any, referred to in section 16 (1) (a) of the said Act as amended by this Act, and fixing a reasonable period for the making of the representations referred to in section 16 (1) (b) of the said Act amended as aforesaid ;

(ii) the procedure prescribed by section 16-A of the said Act, as amended by this Act, shall be followed thereafter.

(2) All notifications issued by the State Government before the commencement of this Act under section 17-A of the said Act and not cancelled before such commencement shall, as from such commencement, be deemed to have been issued under section 17-A of the said Act as amended by this Act :

Provided that an application may be filed under section 17-A (2A) of the said Act as amended by this Act in respect of any such notification within thirty days from the commencement of this Act.

(3) All other notifications and orders issued before the commencement of this Act under any other provision of the said Act and not cancelled before such commencement shall, as from such commencement, have effect as if they had been issued under the corresponding provision of the said Act as amended by this Act.

APPENDIX V.

[Vide item V on page 123 supra.]

L.A. BILL No. 15 OF 1950.

(As passed by the Assembly.)

A Bill further to amend the Legal Practitioners Act, 1879, in its application to the State of Madras.

Central Act
XVIII of
1879.

WHEREAS it is expedient further to amend the Legal Practitioners Act, 1879, in its application to the State of Madras, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Legal Practitioners (Madras Amendment) Act, 1950. Short title.

Central Act
XVIII of
1879

2. To section 25 of the Legal Practitioners Act, 1879, the following further proviso shall be added, namely :— Amendment of section 25, Central Act XVIII of 1879.

“Provided further that no stamped paper shall be required for the renewal of a certificate to practise as a pleader granted to a person who had enrolled himself for life as a vakil of the Chief Court, Pudukkottai.”

I certify that this is a Money Bill.

J. SIVASHANMUGAM PILLAI,

[7th August 1950]

APPENDIX VI.

[Vide answer to starred question No. 8, asked by Sri R. Suryanarayana Rao, at the meeting of the Legislative Assembly, held on 7th August 1950, page 88, supra.]

G.O. No. 1097, Health, 25th March 1950.

[Town-planning—Report of the Madras Provincial Town-Planning Enquiry Committee—Recommendations—Orders passed.]

READ—the following paper :—

G.O. No. 3578, P.H., dated 29th October 1947.

Order—No. 1097, Health, dated 25th March 1950.

In October 1947, the Government constituted a committee to report on the amendments to the Town-Planning Act, 1920, with a view to ensure the expeditious execution of town-planning schemes, the methods of rationalising the levy of betterment contribution, the methods for organizing Town-Planning departments, the provision of adequate technical staff, the financing of schemes, etc., and also to draft, if considered necessary, a comprehensive Town-Planning Bill. The Committee has submitted a comprehensive report on all matters concerning town-planning. The Committee did not take up the task of drafting a comprehensive Bill as, in its opinion, the Government should take it up with proper technical and legal advice after the consideration of the report. It has, however, suggested certain amendments to the Town-Planning Act and the Town-Planning Rules. The Government have carefully examined the recommendations of the Committee and they proceed to pass orders on the recommendations as shown in the appendix to this order.

(By order of His Excellency the Governor)

T. M. S. MANI,
Secretary to Government.

APPENDIX.

Recommendations of the Town-Planning Enquiry Committee.

(1)

- 1 Research on town-planning should be undertaken with special reference to town-planning in ancient India.
- 2 A simplified form of the general town-planning schemes should be adopted and the Madras Town-Planning Act, 1920, should be amended so as (a) to make the preparation, publication, sanction and enforcement of such schemes statutorily obligatory within a fixed time-limit, (b) to provide for the manner of preparation, publication, etc., as in the case of detailed town-planning schemes and (c) to include in the schemes, matters mentioned in section 4 of the Act.
- 3 It is desirable that a general town-planning scheme should be prepared in respect of every local area which is administered by either a municipal council or a panchayat board.
- 4 The preparation of the draft scheme (Master plan) should be carried out in the initial stages by the Director of Town-Planning, who should be given adequate technical and other staff as may be necessary.

Orders of Government.

(2)

The Government consider that it is not necessary for a State Government to undertake the research work in town-planning.

The Government consider that no time-limit need be fixed in the Act itself and that it would be sufficient to take power under the Act to fix such time-limit, as the Government may consider necessary from time to time, on the merits of each case. Subject to this, they propose to take steps to amend the Madras Town-Planning Act, 1920, with a view to give effect to the recommendation.

Under section 8 of the Act, it is obligatory on the part of municipal councils to prepare general town-planning schemes. The Government propose to make provision in the Town-Planning Act for compelling all panchayats, which are urban in nature and where staff and other facilities exist, to prepare general town-planning schemes.

The Government consider that schemes should be prepared by local authorities as at present with the assistance of the office of the Director of Town-Planning in difficult cases. But the position will be reviewed when the financial position of the State improves and the paucity of trained town-planning staff ceases to exist.

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APPENDIX

Recommendations of the Town-Planning Enquiry Committee.

(1)

5 The provisions of the Government Buildings Act, the Indian Railways Act, the Indian Electricity Act and other laws and rules which grant exemptions to all developments including building operations undertaken or carried out by Government departments, statutory undertakings or other public bodies from the Madras Town-Planning Act, 1920, the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, or the Madras Local Boards Act, 1920, should be amended by deleting such exemptions.

6 Any transfer of property within the area of the general town-planning scheme should be registered by the Registration department only when it is accompanied by a certificate to be granted by the executive authority of the local planning authority, to ensure that the proposed transfer does not contravene any of the provisions of the general town-planning scheme or any detailed town-planning scheme sanctioned or under preparation or any of the provisions of the Madras Town-Planning Act, or any of the provisions relating to street making, layouts and building regulations, i.e., Chapters IX and X of the Madras City Municipal Act and the Madras District Municipalities Act.

7 The general town-planning scheme may be in respect of the entire municipal or panchayat area and a belt area all round and such suburban or satellite areas (if any), as may be necessary.

Orders of Government.

(2)

The schemes of Government departments are prepared by competent authorities and therefore the Government do not consider that it is necessary to accept this recommendation at present.

The matter is under consideration and orders will be issued separately.

The Government do not consider that they need take any action on this recommendation. The local authorities concerned should move the appropriate authorities for inclusion of the areas in their vicinity in the general town-planning schemes.

8 From the date of publication of a general Town-planning scheme, all developments shall be controlled by the executive authority on the lines of the draft scheme prepared by the Director of Town-Planning until the sanction of the final scheme by the Government. Thereafter, the control shall be exercised by the executive authority in accordance with the sanctioned scheme.

In view of the orders on item 2 above, no separate orders are required on this recommendation.

9 Any person, whose property is injuriously affected by any refusal to grant the permission applied for under the provisions of section 17 of the Act, shall, if he makes a claim for the purpose within the time, if any, limited by the general town-planning scheme not being less than three months after the date of publication of the final scheme, be entitled to obtain compensation in respect thereof from the local planning authority.

The object of the Committee will be achieved when action is taken as proposed under item 2 above.

10 (a) The Town-Planning Act should be made into a Town and Country-Planning Act, so as to be automatically applicable to any area within the Province.

The Government do not accept this recommendation. The action proposed under item 3 is adequate for the present.

(b) The extension of the principles of town-planning to the countryside and the undertaking of schemes for various regional areas can be achieved only by a more comprehensive Town and Country-Planning Act on the lines of the English Town and Country-Planning Act.

The Government do not consider that legislation as recommended by the Committee is necessary, in the financial and other conditions relating to staff, etc., existing in this State.

11 No scheme should be allowed to get time barred.

In view of the lack of qualified technical staff, the Government do not consider that any change in the existing procedure is feasible at present.

Recommendations of the Town-Planning Enquiry Committee.

(1)

- 12 Consistent with the need for adopting a particular procedure, a great deal of simplification should be effected to expedite the sanction of a scheme and the rules may be revised suitably so that it may be possible for a scheme to be published and sanctioned within the period recommended by the Committee.
- 13 The schedule of ownership which accompanies a scheme should furnish the names of owners also as it would help people to know or identify their property much better than if only the survey numbers and extents are given. The local planning authorities should maintain a separate register for each scheme showing the correct names of owners incorporating the changes occurring from time to time.
- 14 Long delays now taking place with the Government and their departments after submission of the schemes should be avoided as far as possible.
- 15 Ordinarily about 150 acres would be a proper area for a detailed town-planning scheme subject to departures wherever necessary.
- 16 Slum clearance schemes, schemes for the improvement of insanitary and unhealthy areas, replanning or rebuilding of existing built-up areas, etc., can and should be undertaken under the provisions of the Town-Planning Act and that necessary amendments to the Act should be made.

Orders of Government.

(2)

The Government do not consider that any change in the existing procedure is necessary at present.

In view of the provisions of section 13 (1) (b) of the Town-Planning Act, no further action is required in respect of the first part of the recommendation. As regards the second part, the Government consider that in order to enable the arbitrator to give notices to the correct owners, it is necessary that the executive authority should maintain a separate register of all transfers of property intimated to him under rule 66 of the Town-Planning Rules and make a timely report of all such transfers to the Arbitrator after he is appointed. The question of amending the Town-Planning Rules in this regard is under consideration.

There are no avoidable delays at present.

The Government do not consider it desirable to have a fixed area for all town-planning schemes arbitrarily. They commend this recommendation to local bodies for adoption wherever possible.

Most of the types of schemes referred to by the Committee can be undertaken by the local planning authorities in accordance with the existing provisions in section 4 of the Town-Planning Act. The Government do not therefore consider that an amendment of the Act is necessary.

17 All land development, housing, slum clearance, etc., schemes undertaken by whatever authority should be approved by the Provincial Ministry of Government.

18 The Town-Planning Act should be suitably amended so as to define in a more specific manner the constitution and working of the Joint Town-Planning Boards, their jurisdiction and extent of authority over the area of the Joint Scheme, their Joint responsibilities and powers and also the specific type or types of Joint Town-Planning Scheme or Schemes that may be taken up by such Boards for preparation, execution and control.

19 If building applications are disposed of within the time prescribed, the chances of unauthorized buildings springing up will be lessened.

20 Adequate training facilities should be afforded to produce large number of competent architects, engineers, etc.

21 Steps should be taken to ensure that lay-outs and building plans are prepared by qualified Town-planning architects, engineers, draftsmen or surveyors licenced for the purpose. Provision should be made for the registration of qualified and licenced architects, etc.

The Government do not accept this recommendation as it will discourage private enterprise and will throw considerable unnecessary work on Government Departments.

The Government agree with the Director of Town-Planning that no action is required in this matter at present as various reforms in the field of local administration are under consideration.

All local bodies are informed that applications for lay-outs, street making and building constructions should be dealt with promptly and disposed of within the prescribed time-limit. If the applications, etc., are not disposed of within the prescribed time-limit, executive authorities should send a report to the Director of Town-Planning immediately who should investigate and report to Government if any further action is required.

The recommendation is under consideration and orders will issue separately.

All local bodies including panchayats are requested to adopt the model by-laws relating to licensed surveyors, etc., approved in G.O. No. 413, P.H., dated 13th December 1948.

The question of registration of qualified architects is under consideration.

Recommendations of the Town-Planning Enquiry Committee.

(1)

- 22 Streets' appearance should receive adequate consideration.
- 23 The provisions contained in the Madras City Municipal Act, or the Madras District Municipalities Act regarding control or layout of towns and villages and street by-laws and Building Rules made under the Acts are inadequate and unsuitable to meet the modern town-planning requirements.
- 24 The need for incorporating the provisions relating to street control and building regulations in the Town-Planning Act itself should be examined in detail and should be gone into separately.
- 25 In all matters relating to laying out or subdivision of lands into sites for building purposes and of making streets by private parties or by private societies or firms, etc., the approval of the layouts should be by the executive authority and not by the municipal council or committee and in granting such approval the executive authority should consult the Director of Town-Planning and act upon his advice irrespective of whether such layout falls within a town-planning area or not. Provisions to this effect should be made in the expanded Town and Country-Planning Act.

Orders of Government.

(2)

Attention of the Madras Corporation and other municipal and panchayat authorities is invited to the provisions of sections 231 (1) (a) of the City Municipal Act and 193 (1) (a) of the Madras District Municipalities Act, 1920. The Government wish to impress on local bodies the need and importance of making use of these provisions. The Government consider that no specific orders are necessary in the matter. The local bodies should frame proper by-laws and when a 'Building Code' the preparation of which is engaging the attention of Government, is actually prepared, local bodies will have proper direction in the matter. The question of framing suitable by-laws to control development in Town-Planning and other areas and also of amending the Madras Town-Planning Act, 1920, the Madras District Municipalities Act, 1920, and the Madras City Municipal Act, 1919, in order to remove over-lapping of functions under present provisions will be considered after the proposed new Panchayats Act is passed and new panchayats have been constituted. Local bodies should strictly observe the instructions issued in G.O. No. 1920, Public Health, dated 26th May 1939. No amendment to the Town-Planning Act is considered necessary.

26 Housing occupies an important place in the framework of town and country planning and comprehensive housing legislation is required to secure co-ordination and for fitting the various schemes into the general framework of town-planning.

The recommendation is under the consideration of the Government.

27 The Town-Planning Act should be expanded so as to ensure proper and co-ordinated development of trunk roads and highways whether they run through or outside towns and villages and effective control of Ribbon Development which follows in the wake of the development of roads and communications throughout the province or country. Provision should be made in the Act for adequate means and facilities and power to secure such object under the schemes framed under the Act which may cover large areas through which the highways pass more or less for the various regions of the Province.

The matter is under consideration.

28 The determination of competing claims and the allocation of land for the various requirements must proceed on the basis of selecting the most suitable land for a particular purpose irrespective of the prevailing values and prospects attached to individual plots of land.

The Government consider that the existing provisions, particularly sections 4 (k) and (m) and 22 (l) of the Madras Town-Planning Act are quite adequate and they see no reason to accept the Committee's recommendation.

The law should be specific that no compensation for injurious affection shall be payable by a local planning authority as a result of such reservation and prevention of particular use of land.

Recommendations of the Town-Planning Enquiry Committee.

(1)

- 29 The method of merely setting apart particular areas within the municipalities and the panchayat areas for industrial purposes under section 4 (k) and (n) of the Town-Planning Act will not properly and effectively meet the requirements and facilities needed for industrial development in this country which should be based on a more comprehensive and positive planning policy and programme.
- 30 The local planning authorities should make provision for the housing of industrial workers with a view to prevent the development of insanitary and congested chris and colonies in the vicinity of Industrial buildings. Suitable housing schemes should be formulated for this purpose by local planning authorities in co-operation with owners of industries.
- 31 The Town-Planning Act and the Rules should be amended to contain provisions in respect of all matters of town-planning which should be applicable to all kinds of development in towns and villages as a matter of normal requirement and enforceable throughout their areas irrespective of the existence or otherwise of a town-planning scheme.
- 32 Suitable rules which are of ordinary application in towns and villages may be made by Government for the normal regulation of development.

Orders of Government.

(2)

The Government do not consider it necessary to accept the recommendation. The question however as to whether prior approval of the Director of Town-Planning for lay-outs for factories is necessary is being examined separately.

The Government accept the recommendation. All local authorities are informed that while framing Town-Planning Schemes they should bear in mind the need for providing housing for industrial labour wherever possible.

The Government consider that most of the development contemplated by the Committee may be controlled by framing model by-laws and that the question of framing suitable by-laws may be taken up after the new Panchayat Act has come into force so that the enforcement of the provisions of the proposed by-laws may be entrusted to the proper authorities, namely, the Panchayats.

In view of the orders on recommendation No. 31 no action on this recommendation is necessary.

33 For the successful carrying into effect of a Town-Planning Scheme it is necessary that some control is exercised over development during the interim period between the notification under section 10 or 12 and until the scheme is prepared, published, submitted and finally sanctioned by Government under section 14, by making suitable amendments to section 17 of the Act. The Committee recommends that the section may be recast as follows:—

- (1) After the publication of a notification under section 10 or section 12, no person shall erect or proceed with any building or work on or enter into or carry out a contract in respect of land within the area included in the scheme unless he has applied for and obtained permission from the executive authority of the local planning authority.
- (2) If the executive authority omits for two months from the date of receipt of such application to communicate to the applicant any order thereon, or, if within the said period he has received an order which does not fully comply with the application, the applicant shall have a right of appeal to the local planning authority. Such an appeal shall be filed within thirty days from the date of the receipt of the order or from the date of expiry of the period of two months aforesaid, as the case may be.

The Government agree generally that suitable amendments to the Act are necessary. The question of amending the Town-Planning Act with reference to the recommendations is being pursued.



Recommendations of the Town-Planning Enquiry Committee.

(1)

- (3) Such planning authority shall pass on the appeal such order as it deems fit within two months from the date of receipt of such appeal. Such order shall be final. If, however, no such order is passed within the said period of two months, the applicant shall be deemed to have been granted the permission applied for.

The Committee also recommends that—

- (i) the reasons for refusing applications should be stated by the executive authority (or appellate authority);
- (ii) to overcome the difficulty in enforcing the orders of the executive authority a sub-clause (4) may be added to section 17 on the lines of section 19 (1);
- (iii) provision should be made to prevent the granting of conditional licences;
- (iv) provision should be made to overcome the difficulties created by the parties often raising legal objections and resorting to litigation with a view to gain time and to circumvent rules;
- (v) A short report or pamphlet giving a summary of the essential provisions and the powers under the Act and a clear statement about the proposed scheme should be prepared in consultation with the Director of Town-Planning, and placed at the service of members of the local authority and the owners of land and other interested persons.

ers of Government.

(2)

As regards item (v), executive authorities of local bodies are requested to prepare along with the preparation of Town-Planning Schemes a short report or pamphlet giving a summary of the essential provisions of the Act and a clear statement about the proposed scheme in consultation with the Director of Town-Planning and place it at the service of the members of the local authority and the owners of land and other interested persons.

34 In cases where a Town-Planning Scheme is being made by a local planning authority for an area outside its limits, the payment of licence fees cannot be insisted on and permission under the Madras District Municipalities Act or the Madras City Municipal Act is not necessary. The proper course in such cases is to extend to such areas the relevant provision of the Municipal Act.

35 Provision as in section 17 (as re-drafted by the Committee) should be included under section 18 for dealing with applications received after sanction. It is also necessary to make provision in section 18 to require the executive authority to state the reasons for refusing an application.

36 Section 19 of the Town-Planning Act should be entirely re-drafted as the wording of it is not quite happy and as it is vague and indefinite.

The Committee recommends that the following amendment may be made to section 19 :—

In sub-section (3) of section 19 the words “and may be enforced” in the first sentence, shall be deleted.

And the following sentence shall be inserted as the second sentence :—

“If such work is still not carried out within the time specified, the executive authority or responsible authority, as the case may

The Government consider that provisions of section 39 (3) of the Madras Town-Planning Act, may be availed of to secure the object which the Committee has in view. Local bodies should, when submitting draft Town-Planning Schemes for the sanction of Government, specify also the areas in respect of which the extension of the Madras City Municipal Act or the Madras District Municipalities Act, as the case may be, may be necessary.

The Government agree with the Committee. The question of amending the Town-Planning Act is under consideration.

The Government agree with the Committee. The question of amending the Town-Planning Act is under consideration.

be, may, if he thinks fit, execute it and the expenses incurred shall be paid by the owners or occupiers in default, and such expenses shall be a first charge on the property on which it is due subject to the prior payment of land revenue, if any, due to the Government thereon and shall be paid in such instalments and manner as may be prescribed."

37 A rule should be framed by Government that before the local planning authority submits a scheme for sanction its local officers such as Public Health, Engineering, etc., should be consulted.

38 A local planning authority must have a constructive programme for the execution of the works proposed in a Town-Planning Scheme within a period of two to five years or more according to circumstances and a chart or schedule showing the order in which the various items of work proposed in the scheme should be taken up and executed year after year and the possible means of financing these and the amount of loans, if any, required from time to time. Such programme should be prepared in advance and incorporated in the scheme and the local planning authority or responsible authority should be bound by the scheme to carry out the works according to such programme.

39 Section 22 of the Town-Planning Act may be amended with a view to avoid certain inconsistencies.

The Government do not consider that a rule need be made. All local planning authorities are requested to consult their local public health, engineering, and other concerned officers before they submit schemes for the sanction of Government.

The question of amending the Madras Town-Planning Rules with a view to give effect to this recommendation is under consideration.

The Government observe that the recommendations are based on a misapprehension of the provisions of the Act. They do not therefore consider that an amendment of section 22 of the Act is necessary.

40 No specific particulars or details are furnished in Town-Planning Schemes of the limitation and scope of the claims for injurious affection liable to be made by owners and other interested persons. It is desirable that the draft scheme gives as far as practicable full particulars of the limitation and scope of such claims and the local planning authority submitting the scheme should work out the details of the possible claims for such compensation and make adequate provision for them in the schedule of the estimate of cost.

41 The system of Arbitration provided in Chapter V of the Act should be eliminated and claims for compensation for injurious affection should be filed before the executive authority of the local planning authority in such manner as may be prescribed and he may be empowered under the Act to decide upon the claims made after making proper enquiries. The parties may be given a right of appeal to a Civil Court against the decision of the executive authority and the decision of the court shall be final and binding on all persons.

42 Claims for compensation for injurious affection must be made only when works under the scheme have been sufficiently advanced or completed and certified by a competent authority and within a period to be fixed in the scheme not exceeding two years from the date of obtaining such certificate. This period fixed in the scheme for making any claim for injurious affection shall be brought to the notice of the

The Government accept the recommendation. The question of amending the Madras Town-Planning Rules is under consideration.

The Government have decided that no change in the existing practice is necessary.

The Government accept the recommendation. The question of amending the Town-Planning Act and the rules framed under the Act with a view to give effect to this recommendation is under consideration.

7th August 1950]

APPENDIX

Recommendations of the Town-Planning Enquiry Committee.

(1)

public in the notification of the Government sanctioning the scheme when it is published in the official gazette and also by publication of a notice in a local language newspaper.

- 43 Appeal to a Civil Court against the decision of the executive authority of a local planning authority in regard to the claims for injurious affection shall be made within sixty days from the rejection of the claim in whole or in part by the executive authority.

- 44 It should be open to the executive authority of a local body to enter into any agreement with a claimant in regard to the manner of payment of compensation whether by instalments or otherwise, or he may, instead of paying compensation adopt any other alternative method to avoid or mitigate payment.

- 45 The exact relationship that should exist between the executive authority and the local planning authority in the matter of disposal of claims for compensation should be specified to avoid future difficulties. In the settlement of claims for compensation the executive authority should be associated with a local committee of rate payers where such a committee already exists or which may be constituted for the purposes and such committee may be represented by Counsel before the executive authority or courts.

Orders of Government.

(2)

The Government do not accept this recommendation. The present limit of three months is not excessive.

The question of introducing a rule in the Town-Planning Rules with a view to give effect to the recommendation is under the consideration of the Government.

The Government do not accept this recommendation.

46 It is advisable wherever possible that in the interests of quick and easy preparation of schemes the local planning authorities should take up schemes for wholesale acquisition and development. This would go a long way to accelerate housing development.

47 Not only should a local planning authority have powers of compulsory acquisition of required lands in Town-Planning Schemes after their sanction but such powers should also be available even before the schemes are sanctioned or at any time after the first notification under section 10 or 12 has been made.

48 A local planning authority should be empowered to acquire land necessary for housing persons displaced by any Town-Planning Scheme (such rehousing being carried out as part of the scheme itself).

49 It is important that the lands required for a Town-Planning Scheme are acquired within the time specified in section 34 of the Town-Planning Act.

Local planning authorities are requested to take a comprehensive view in regard to the acquisition of land for town-planning purposes and to acquire as much land as will be required for the smooth execution of Town-Planning Schemes. The Government however consider that there can be no point in the local planning authorities acquiring land which is not likely to be needed for, or is not involved in the schemes.

The Government accept the recommendation. But they consider that the actual acquisition and the extent of land to be acquired should be decided with reference to the facts of each case, the funds available with the local bodies, the possibility of the danger of locking up of funds, etc. They consider that such power to acquire land should be exercised only with the sanction of the Government as usual.

The Government do not consider it necessary to approve the first portion of this recommendation. The question of amending the Town-Planning Act with a view to give effect to the latter part of the recommendation is under consideration. Necessary executive instructions in this regard will be issued after the Act has been amended.

The Town-Planning authorities should, with reference to the urgency of each case, press the authorities concerned to take further steps in the matter of acquisition of land. Each case will have to be dealt with on its merits.

Recommendations of the Town-Planning Enquiry Committee.

(1)

50 Section 34 of the Town-Planning Act may be amended extending the period of validity of the notification under section 14 of the Act as a declaration under section 6 of the Land Acquisition Act, from 3 years to 5 years.

51 There have been long delays in the time taken for the preparation, publication and sanction of schemes since the date of the first notification and it is recommended that certain modifications may be made to the existing procedure regarding payment of compensation, etc. It is suggested—

(1) in the case of all schemes notified under section 12 on or after 1st January 1944, the governing date for the payment of compensation should be the date of the first notification ;

(2) in the case of notifications made before 1st January 1944, but schemes not sanctioned till now the governing date for the payment of compensation should be the date of sanction of the schemes under section 14 whenever it may be ;

(of course, this recommendation will not affect cases which have been already sanctioned by Government though notified prior to 1st January 1944.)

Orders of Government.

(2)

The Government do not accept this recommendation.

The Government generally accept the recommendation.

The question of amending the Town-Planning Act with reference to this recommendation is under consideration. Necessary instructions in the matter will be issued after the Act has been amended.

(3) there is yet another class, i.e., schemes coming under sections 10 and 11 of the Act under which local planning authorities have published draft schemes under section 11, but because there is no provision to compel them to submit the schemes in any specified period, they have unduly delayed the submission of schemes and many years have passed since their publication under section 11. The same rules as stated above should apply for these cases also, viz., that if the section 10 notification was before 1st January 1944, then the governing date for compensation should be the date of sanction under section 14. If it is on or after 1st January 1944, then the governing date for compensation should be the date of section 10 notification.

52 In the interests of its present and future inhabitants the town or village should become the owner of land in undeveloped areas and suburban sections and thus influence their proper development.

The Government do not accept this recommendation.

53 (i) Adequate statutory provisions should be included in the Town-Planning Act for the various purposes of dealing with or disposal of land owned or acquired by local planning authority by lease sale or otherwise.

The Government do not accept this recommendation. The various statutory provisions now existing are sufficient.

Recommendations of the Town-Planning Enquiry Committee.

(1)

- (ii) Adequate powers should be vested in the Government to control and regulate the manner or method of disposal of land and the imposition and enforcement of suitable conditions and restrictions in all cases of such disposal by local planning authority.
- 54 Local planning authorities must not pursue a highest bidder policy in disposing of their land and they should not become land speculating bodies.
- 55 The present provisions relating to betterment contribution in sections 23, 24, 25 and 26 of the Town-Planning Act are unsatisfactory under the existing conditions. Alternate proposals regarding the levy of development or improvement charges may be considered.
- 56 The entire provisions of sections 27 to 29 (the whole of Chapter V) of the Town-Planning Act relating to arbitration should be deleted and the remaining functions which an arbitrator has to perform at present relating to the demarcation of streets, roads and other reserved sites in schemes and also of redistribution of boundaries and reconstitution of plots should also be entrusted to the executive or responsible authority who is generally more conversant with local conditions. It is however suggested that the executive or responsible authority should be enjoined to strictly follow the provisions of the schemes and rules and Act in due consultation with or approval of the Director of Town-Planning. In

Orders of Government.

(2)

As there are already sufficient safeguards, the Government do not consider it necessary to accept this recommendation.

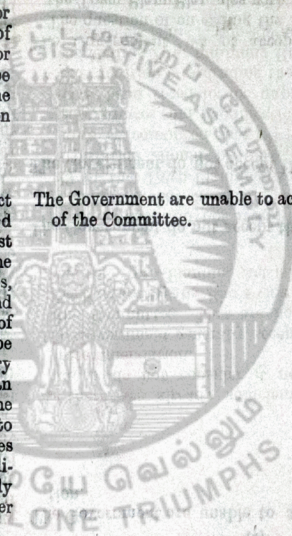
The Government generally accept the recommendation of the Committee. They are however inclined to accept Sri Suryanarayana Rao's view. The question of amending the Town-Planning Act is under consideration.

The Government do not accept the recommendation of the Committee that the entire provisions of sections 27 to 29 of the Town-Planning Act (Chapter V) relating to arbitration should be deleted. The Government are, however, convinced that the present system of arbitration requires some modifications and certain suggestions have been received for improving the present system. The question of amending the Town-Planning Act and the Madras Town-Planning Rules with reference to these suggestions is under consideration.

the case of any objection made by any party on the decision passed by the executive or responsible authority to the demarcation of streets, etc., or redistribution of boundaries or reconstitution of plots, an appeal shall lie to the Government or other specified authority whose decision shall be final and binding on all persons concerned. The Town-Planning Act may make suitable provision for the above matters.

57 The financial provisions in the Town-Planning Act have not been satisfactory and have rendered Town-Planning progress and advancement almost impossible. The State should intervene in the planning and development of our towns and villages, in the rebuilding of slums, improvement and reconstruction of houses, etc., by investment of considerable capital. Suitable provision should be made in the Town-Planning Act to enable every local body for the creation and maintenance of an adequate local Town-Planning fund for meeting the deficits on account of particular schemes and to collect a special Town-Planning tax on properties lying within the local body area and in such additional belt area in the vicinity of such local body area as may be notified by the Government under the Act for the purpose.

The Government are unable to accept the recommendation of the Committee.



Recommendations of the Town-Planning Enquiry Committee.

(1)

- 58 Provincial Government in addition to making contributions towards the Town-Planning Fund of Municipal Councils (as recommended elsewhere) should set apart annually a particular sum of money out of the Provincial revenues and constitute a Provincial Town-Planning Fund for the purpose of affording easy facilities to all local planning authorities to obtain the funds they require in connection with the schemes undertaken by them under the Town-Planning Act and for enabling the Government themselves to give loans or grants or such other aid as the case may be, out of such fund to the local planning authorities as and when necessary.
- 59 Steps should be taken by the Government to establish immediately a separate Ministry for Town and Country-Planning and Housing.
- 60 The creation of a combined Town and Country-Planning and Housing Board is necessary to co-ordinate the work of Town-Planning and Housing and to advise the Ministry of Town and Country-Planning and Housing in the formulation of policies and programmes of work.
- 61 The existing strength of officers and staff of the Directorate of Town-Planning and the scales of pay attached to the various posts are inadequate and meagre when compared with the responsibilities and duties attached to them. The Directorate of Town-Planning may be suitably reorganized.

Orders of Government.

(2)

The Government are unable to accept the recommendation.

The Government do not accept the recommendation.

The Government do not accept the recommendation.

The Government do not accept this recommendation. The question of amending the Town-Planning Act and the Town-Planning Rules with a view to give effect to certain suggestions made by the Bhore Committee in this regard will be taken up separately.

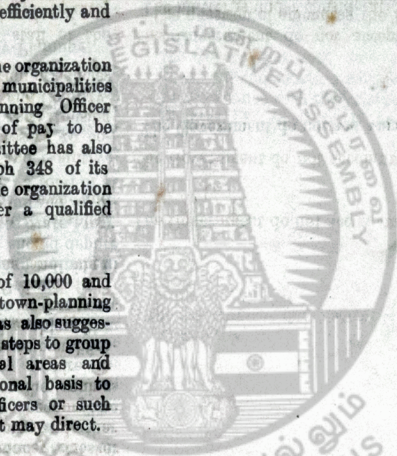
62 There should be proper and adequate organization in all municipalities and other local body areas for carrying out Town-Planning works efficiently and expeditiously.

The Government do not accept this recommendation.

(1) The Committee has recommended the organization required for the various classes of municipalities each under a qualified Town-Planning Officer and has suggested also the scales of pay to be allowed for the posts. The Committee has also made recommendations in paragraph 348 of its Report regarding the set up of the organization for the Corporation of Madras under a qualified Chief Town-Planner and Architect.

(2) All Panchayats with a population of 10,000 and above should employ adequate town-planning staff as recommended by it. It has also suggested that Government should take steps to group the remaining panchayats and rural areas and appoint staff on a district or regional basis to work under District Panchayat Officers or such other suitable agency as Government may direct.

(3) The Town-Planning Officer of each local body should work under the concerned executive authority and should deal with the Central Directorate only through the executive authority and vice versa.



[7th August 1950]

Recommendations of the Town-Planning Enquiry Committee.

Orders of Government.

(1)

(2)

63 With a view to overcome the difficulty experienced by the Government and the local bodies on account of the paucity of qualified persons for employment as Town-Planning subordinates, the following recommendations are made:

The matter is under consideration.

(i) Institution of degree, licentiate and refresher courses in Town and Country-Planning and other allied subjects in the Engineering Colleges. (The nature of study and syllabuses for the courses have also been suggested.)

(ii) Importation of persons with necessary qualifications, i.e., at least two Professors in the subject from England or outside, on contract basis for five years for employment in the Engineering Colleges.

(iii) Deputation of candidates for foreign training in Town-Planning. The Government should depute two Engineering graduates of Madras State every year for special study in Town-Planning and Architecture for a period of five years; i.e., a total of at least ten persons may be deputed.

64 The Government should take very early steps to establish an Institute of Town and Country-Planning and Architecture in Madras simultaneously with the institution of special degree and licentiate courses in Town and Country-Planning.

The Government do not accept this recommendation.

65 Proper publicity or education of Town and Country-Planning principles and policies should be undertaken for public benefit and enlightened public opinion must be created to ensure successful administration and planning results.

The matter is under consideration.

66 The Town-Planning Enquiry Committee is not in favour of the proposal for undertaking legislation for the purpose of constituting Improvement Trust Boards in municipal or other local areas. The Committee recommends instead that a separate Town-Planning Board may be created in respect of each local body area by altering the provisions of sections 37 and 45 to 54 of the Town-Planning Act. The Committee also recommends that suitable modification may be made of section 38 of the Act to provide for the constitution of Joint or Regional Planning Boards in respect of two or more local bodies on the same lines as those of the Town-Planning Boards for single local bodies. In exceptional cases Government may take power to create Town-Improvement Trusts on the lines of the Madras City Improvement Trust.

The Government do not accept this recommendation of the Committee.

It is however considered that in the event of the Director of Town-Planning bringing to the notice of the Government ineffective Town-Planning works in a municipality the Government may well constitute a Town-Planning Trust in consultation with the municipality concerned in accordance with the existing provisions contained in Chapter IX (sections 45 to 54) of the Town-Planning Act.

67 The levy of a provincial tax on the letting value of immovable properties or a similar tax on the capital invested on new buildings and extensions in urban areas as suggested by the Government will be burdensome and detrimental to house building.

The Government agree with the observation made by the Committee.



THE MADRAS LEGISLATIVE COUNCIL.

Tuesday, the 8th August 1950.

The House met in the Council Chamber, Fort St. George, at 2-30 p.m., Mr. Chairman (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Construction of a dam across the South Pennar in Sathanur limits.

* 7 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Public Works be pleased to state at what stage the proposal for the construction of a dam across the South Pennar in Sathanur limits to impound water required for irrigation purposes is?

THE HON. SRI M. BHAKTAVATSALAM:—“The scheme has been investigated and the plans and estimate prepared are under scrutiny in the Chief Engineer’s office.”

SRI R. SURYANARAYANA RAO:—“May I know, Sir, whether the scheme, when the plans and estimates are approved, will be included in the list of those which the Hon. the Minister gave at the time when the Budget was presented?”

THE HON. SRI M. BHAKTAVATSALAM:—“Yes, Sir. I do expect that after the scrutiny and other preliminaries are over, the scheme will be taken up in the course of the year.”

Higher Judicial Service.

* 8 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Chief Minister be pleased to state—

(a) whether rules governing Higher Judicial Service have been framed and if so, what they are;

(b) what will be the strength of the cadre;

(c) whether it is proposed to provide for direct recruitment and if so, what the proportion of direct recruits will be;

(d) whether the District Magistrates working under the Separation Scheme will form part of the Higher Judicial Service;

(e) what the scales of pay proposed for the Higher Judicial officers are; and

(f) whether the District Magistrates under the Separation Scheme will be entitled to the same scales of pay as the District Judges?

THE HON. SRI K. MADHAVA MENON (on behalf of the Hon. the Chief Minister):—“(a) No.

“(b) Does not arise.

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“(c) Yes. It is not possible to say what the proportion will be as no decision has been reached in the matter.

“(d) No.

“(e) The scale of pay for District Judges will be Rs. 1,000—60—1,300—50—1,800.

“(f) No. The scale of pay of District Magistrates will be Rs. 800—100/2—1,000.”

SRI R. SURYANARAYANA RAO :—“ May I know, Sir, when the Government expect to formulate rules governing higher judicial services? ”

THE HON. SRI K. MADHAVA MENON :—“ I cannot say definitely when it will be done. The High Court had been consulted and they wanted time till the re-opening of the court. As soon as we receive the recommendations of the High Court we shall decide upon the rules.”

SRI R. SURYANARAYANA RAO :—“ Is not the salary of District Magistrates in districts where separation of judiciary from the executive has not been effected the same as that of the District Judges? ”

THE HON. SRI K. MADHAVA MENON :—“ The District Judges are started on Rs. 1,000 and the grade goes up to Rs. 1,800, while the District Magistrates in the ‘separation areas’ get a starting salary of Rs. 800.”

SRI R. SURYANARAYANA RAO :—“ My question relates to non-separated areas? ”

THE HON. SRI K. MADHAVA MENON :—“ In the case of District Judges the starting salary is Rs. 1,000. In the case of Collectors and District Magistrates it is Rs. 800 if they are I.A.S. men and in the case of I.C.S. men they draw their grade pay.”

SRI R. SURYANARAYANA RAO :—“ Am I right in saying, Sir, that a listed post holder acting as Collector and District Magistrate in a district where separation has not been introduced does not draw the same salary as the District Judge? ”

THE HON. SRI K. MADHAVA MENON :—“ It all depends upon when the officer was listed. If he has been listed and subsequently taken into the I.A.S. he gets the senior scale of pay. If the listed officer became a Collector before the formation of the I.A.S. and not taken into it he will draw the same pay as he was originally drawing.”

SRI R. SURYANARAYANA RAO :—“ May I know, Sir, whether in the selection of District Magistrates, the case of senior Subordinate Judges is considered? ”

THE HON. SRI K. MADHAVA MENON :—“ Yes, Sir. We do certainly consider their cases. We have issued orders

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that only those who lie, in point of seniority, in between the Subordinate Judges and District Judges should be selected as District Magistrates."

SRI R. SURYANARAYANA RAO :—" Are not District Magistrates liable to transfer as District Judges either as a routine or in some proportion? "

THE HON. SRI K. MADHAVA MENON :—" Only those Subordinate Judges who are in the panel of District Judges are appointed as District Magistrates so that when they come to the stage of becoming District Judges they will be automatically promoted provided, of course, there is no particular reason why promotion should be withheld."

Supply of adequate water to the existing ayacuts by increasing the capacity of storage tanks.

* 9 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Land Revenue be pleased to state—

(a) whether, in increasing the capacity of storage tanks, the main purpose is to ensure adequate supply to the existing ayacut;

(b) what steps, if any, are taken to prevent increase in ayacut and thereby ensure adequate supply to the existing ayacut; and

(c) whether the Government are in receipt of representations protesting against the proposed increase in ayacut in respect of certain tanks?

THE HON. SRI H. SITARAMA REDDI :—" (a) This is the correct position.

" (b) The Board and the Chief Engineer (Irrigation) have been instructed to see that the registered ayacuts of tanks are not increased unless some experience has been gained of their capacity after they have been repaired or improved. The Government, however, consider that there is no objection to supply being made to new fields, without any guarantee of future supply if the repairs or improvements result in a surplus quantity of water, which can be usefully diverted to new fields.

" (c) No such representations have hitherto been received."

Appointments outside the purview of the Madras Public Service Commission.

* 10 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Chief Minister be pleased to state—

(a) whether there are departments of Government for which even initial recruitment is outside the purview of the Public Service Commission and if so, what those departments are;

(b) what the overriding considerations are to keep them outside the purview of the Public Service Commission;

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(c) whether the Government have at any time considered the desirability of transferring recruitment to all departments to the Public Service Commission; and

(d) whether there is any proposal to increase the strength of the Public Service Commission?

THE HON. SRI K. MADHAVA MENON (on behalf of the Hon. the Chief Minister) :—“(a) It is presumed that the information sought is not merely regarding the departments but also in regard to individual posts or the categories of posts, recruitment to which has been excluded from the Commission's purview. Attention is invited to the list of such posts given in Annexure I to the Madras Public Service Commission Regulations, 1937 at pages 11 to 13 of the Madras Services Manual, Volume I. Besides these posts, the administrative departments of Government concerned have also excluded some posts from the Commission's purview with its concurrence under Regulation 18 (b) of the Commission's Regulations. The Manual is available for reference at the Library of the Madras Legislature and also at the Secretariat Library.

“(b) The principles generally observed in excluding posts from the Commission's purview are—

(1) that the posts are unimportant and the holders thereof will not normally be promoted to the Provincial Services; and

(2) that the posts are isolated or of a special or technical nature.

“(c) The power to exclude posts from the Commission's purview is exercised very sparingly and for special reasons and whenever the excluded posts assume importance or there is change in their nature, the question of bringing them within the Commission's purview is duly considered. Such a survey was recently conducted as a result of which some posts which were outside the Commission's purview were brought within its purview.

“(d) The answer is in the negative.”

SRI R. SURYANARAYANA RAO :—“Is the information, Sir, regarding the review made of posts that have been brought within the purview of the Service Commission also available in the volume referred to by the Hon. the Minister for Law?”

THE HON. SRI K. MADHAVA MENON :—“I do not think that is available in the volume. If a separate question is put I shall supply the information.”

Austerity measures to conserve the meagre food supplies.

* 11 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Food be pleased to state—

(a) what austerity measures are being enforced in order to conserve the meagre food supplies available;

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(b) whether rations for special occasions such as marriages, funerals, etc., are being regulated according to rules and if so, what they are;

(c) who the authorities competent to sanction these special rations are;

(d) whether there have been occasions when the Government themselves relaxed the rules governing rations for special occasions and if so, what the special circumstances are which necessitated such relaxation;

(e) whether in the recent marriage season in the months of April, May and June the rules were relaxed in the City of Madras in respect of certain persons and if so, to what extent and for what reasons;

(f) what arrangements exist to enforce the austerity measures generally and in the case of relaxation of rules, for their proper enforcement to the extent relaxed;

(g) whether prosecutions have been launched in the recent months for violation of ration rules governing special occasions and if so, in how many cases; and

(h) whether it is a fact that there is a considerable laxity in enforcement of ration regulations?

THE HON. SRI J. L. P. ROCHE VICTORIA :—“(a) The Government have prohibited the feeding of more than 50 persons at each of the two principal meals on the marriage day. On other days and at other parties feeding of more than 30 persons has been prohibited.

“Feeding of delegates at conferences and holding of subscription parties by clubs and associations do not come within the purview of these orders. Conferences are treated as temporary establishments and rations are allowed for feeding the delegates. No extra rations are granted for subscription parties held by clubs and associations.

“(b) Yes. The quantity of foodgrains now allowed for certain special functions is as follows :—

Name of function.	Quantity allowed.
Marriages	Fifty persons at two units each.
Funerals	Fifty persons at one unit each.
Upanayanams	Six persons at two units each.
Shradda	Four persons at one unit each.
Ramzan	Six persons at one unit each.
Bakrid	Do.
Easter	Do.
Christmas and New Year.	Do.

“It has only recently been decided at the instance of the Government of India to allow rations for feeding 50 persons at 2 units each in respect of marriages and at 1 unit each in respect of funerals as against 60 units for marriages and 10 units for funerals in force in this State.

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" (c) The respective Circle Rationing Officers in statutorily rationed areas and the concerned Civil Supplies officials in other areas are competent to sanction the special rations at the scales prescribed by Government. Regarding the increased scale of supply of rations for marriages and funerals referred to in answer to clause (b) of the question above, necessary instructions are being issued to the authorities competent to sanction special rations.

" (d) Yes. The Government have been relaxing these limits of feeding in respect of religious festivals in temples and mutts, as it is a time immemorial custom in South India to conduct feeding on festival days and as complete stoppage of feeding will mean interference with the religious usages.

" (e) No.

" (f) The rationing staff in the statutory rationed areas and the Civil Supplies staff in other areas are expected to watch and enforce these rules.

" (g) Information not readily available.

" (h) Government are not aware of any laxity in the enforcement of ration regulations. Violation of ration rules will be dealt with suitably if brought to the notice of the officers concerned."

SRI R. SURYANARAYANA RAO:—" May I know, Sir, whether the Government have instructed the rationing officers that they should see that the austerity measures including those that have been modified at the instance of the Government of India are strictly enforced in view of the food crisis? "

THE HON. SRI J. L. P. ROCHE VICTORIA:—" Yes, Sir."

Retiring age of Gazetted Officers.

* 12 Q.—JANAB ABDUL LATIF FAROOKHI: Will the Hon. the Minister for Finance be pleased to state—

(a) the prescribed retiring age of Gazetted Officers of the Madras State other than the All-India Services; and

(b) whether any rule is being prescribed for raising the retiring age of any officer now in service and if so, the reasons therefor?

THE HON. SRI B. GOPALA REDDI:—" (a) Gazetted Officers of the Madras State other than those belonging to All-India Services are required to retire on attaining the age of 55.

" (b) No."

2-45 JANAB ABDUL LATIF FAROOKHI:—" Have the Government any statistics of officers whose terms of office have been extended after the age of 55 years? "

THE HON. SRI B. GOPALA REDDI:—" I think specific questions were asked and answers were laid on the table showing the number of super-annuated officers whose terms were extended beyond the age of 55."

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JANAB ABDUL LATIF FAROOKHI :—“ Are the Government aware of the feeling in certain sections of the public that certain officers are being given extension after extension? ”

THE HON. SRI B. GOPALA REDDI :—“ Yes, Sir, it is a fact that we had to give some extensions to some officers because there were not suitable men to take their places and the exigencies of the service required that we should continue the existing officer for some time more.”

SRI R. SURYANARAYANA RAO :—“ May I know whether it is the policy of the Government to give extension of service or re-employment? ”

THE HON. SRI B. GOPALA REDDI :—“ Generally, Sir, it is re-employment; on rare occasions it may be extension of service.”

JANAB ABDUL LATIF FAROOKHI :—“ Are we to understand that extensions are given because suitable officers are not found to take the place of these officers? ”

THE HON. SRI B. GOPALA REDDI :—“ Yes, Sir.”

SRI R. SURYANARAYANA RAO :—“ Is this extension or re-employment confined to technical service officers only? ”

THE HON. SRI B. GOPALA REDDI :—“ Mostly to technical officers, especially in the Public Works Department where supervisors and draughtsmen are given extensions. In rare cases, it may be other people also.”

DR. SYED TAJUDDIN :—“ May I know, Sir, why the junior officers should not be appointed to these posts? ”

THE HON. SRI B. GOPALA REDDI :—“ They are junior officers and therefore they cannot be sometimes promoted to the senior places.”

DR. SYED TAJUDDIN :—“ I mean only those who are fit to be promoted and to occupy those places.”

THE HON. SRI B. GOPALA REDDI :—“ If they are fit to be promoted, we will certainly promote them and retire the senior officers. But if the junior officer is such a junior as not to be able to take the place of the senior who is retiring, then we give him an extension.”

Preparation of electoral rolls for both the Houses of the State Legislature.

* 12-A Q.—SRI R. SURYANARAYANA RAO :—Will the Hon. the Minister for Finance be pleased to state—

(a) how far the arrangements for the preparation of electoral rolls for both the Houses of State Legislature have progressed and when the final electoral rolls are expected to be ready;

(b) what arrangements exist for the elimination of the dead and the disqualified from the preliminary rolls;

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(c) whether it is proposed to set up a permanent machinery to keep the electoral rolls up-to-date; and

(d) whether the Government will make a full statement of the various steps taken for the preparation and publication of electoral rolls and ensure their correctness in respect of both the Houses of State Legislature?

THE HON. SRI B. GOPALA REDDI :—“(a) The printing of the draft electoral rolls for the Madras Legislative Assembly and the Union House of the People on the basis of adult suffrage prepared after the enumeration of voters in 1948 is almost complete. As the Representation of the People Act, 1950, since enacted by the Parliament, liberalized the franchise qualifications, a supplementary enumeration of voters was conducted in June 1950 and the work of preparation of the supplementary draft electoral rolls is now in progress. The draft electoral rolls for the Local Authorities', Graduates' and Teachers' Constituencies of the Madras Legislative Council are also under preparation. It is expected that these draft rolls will be ready for publication as the preliminary electoral rolls by about the middle of September 1950. After the disposal of claims and objections, the final rolls will be published by about the middle of February 1951.

“(b) During the supplementary enumeration of voters a separate list of deceased voters has been prepared. The draft rolls now prepared will be published, as they are, as the preliminary electoral rolls, and after such publication, the Electoral Registration Officer will apply to the Revising Authority for the removal from the rolls of the names of the deceased voters and of persons who are subject to any disqualification.

“(c) The electoral rolls under preparation, when finalized, will remain in force till the 30th September 1952 and the rolls will be revised every year from 1952 onwards. There is no proposal at present to set up a permanent machinery for the revision of the rolls and the question of the machinery necessary will be decided in due course with reference to the statutory rules regarding the revision of the rolls recently promulgated by the Central Government.

“(d) A statement ^a is laid on the table of the House.”

JANAB K. T. M. AHAMED IBRAHIM :—“Sir, when steps are taken for the elimination of the dead and the disqualified from the preliminary rolls, may I know whether adequate notice will be given?” (Laughter.)

THE HON. SRI B. GOPALA REDDI :—“If any such person has given his address ‘care of’ somebody, the information will be intimated to him.”

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JANAB K. T. M. AHAMED IBRAHIM :—" In some cases, living persons have been classed among the dead. It is why I asked whether some notice will be published."

MR. CHAIRMAN :—" Again, the hon. Member may suggest a method of giving notice."

JANAB K. T. M. AHAMED IBRAHIM :—" I suggest that notices may be published in the villages concerned."

THE HON. SRI B. GOPALA REDDI :—" The dead had better take charge of these people, Sir."

MR. CHAIRMAN :—" He suggests that when the preliminary rolls are published a list of those who are said to be dead may also be published."

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—MESSAGE FROM H.E. THE GOVERNOR.

MR. CHAIRMAN :—" I have to inform the House that I have received the following Message from His Excellency the Governor, dated 8th August 1950 :—

' Dear Mr. Chairman,

I have received with great satisfaction your resolution of thanks for the Address with which I opened the present session of the Legislature.

Yours sincerely,
Krishna Kumar Sinhji.' "

III.—ELECTION OF ONE MEMBER TO THE PROVINCIAL LIBRARY COMMITTEE.

MR. CHAIRMAN :—" I have to announce to the House that Sri Maddi Sudarsanam is the only candidate duly nominated for a seat in the Provincial Library Committee. I hereby declare him duly elected."

IV.—GOVERNMENT RESOLUTION.

DELIMITATION OF CONSTITUENCIES AND THE CONDUCT OF ELECTIONS TO LEGISLATURES—cont.

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Mr. Chairman, I think the House will express its thanks to the Hon. the Finance Minister for the opportunity he has given us to have our say in this matter and also for the very lucid manner in which he has tried to explain the whole position to this House. I can see that the Hon. the Finance Minister was labouring under many difficulties, not the least of which was due to the Constitution itself which is as vague as it can be. It is most regrettable that when the Constitution was framed, there were not persons who were fit and able, by virtue of their knowledge of Constitution-making in other countries to advise in an impartial manner, the Constituent Assembly that was set up for some other purpose and which later on transformed itself into an Assembly for the framing of the Constitution. It is too late in the day for us to regret it, but I venture to state that if Constitution making had gone on on the same

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orthodox lines as in many other countries like South Africa, Australia and Canada—to mention only a few—if there had been an independent body of legal talents with knowledge pertaining to Constitution-making, the dreadful mistakes into which we have floundered in this particular Constitution, would not have occurred. Sir, I have accepted the Constitution with no mental reservations. I am entitled to say as a person who is not a lawyer that this Constitution bristles with difficulties and is intended to create more and more difficulties.

“ To illustrate this point, Sir, let me take the particular article which deals with Elections. In Part XV of the Constitution, it is stated in Article 324 (1) as follows :—

‘ 324. (1). The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connexion with elections to Parliament and to the Legislatures of States shall be vested in a commission (referred to in this Constitution as the Election Commission).’

That is the only article which gives us an idea of the powers and duties of the Election Commissioner. I was therefore surprised when the Hon. the Finance Minister told us that so far as he was concerned, the Election Commissioner and the Government of India would be the ultimate authorities to give directions to this Government. I see nothing in the Constitution to warrant such a presumption. On the other hand, Sir, hon. Members may kindly refer to Articles 327 and 328.

‘ 327. Subject to the provisions of this Constitution, Parliament may from time by law make provision with respect to all matters relating to, or in connexion with, elections to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls . . .’

This is what I want my hon. Friend to note.

‘ Including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses.’

The next article says :

‘ 328. Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of State may from time to time by law make provision with respect to all matters relating to, or in connexion with, the elections to the House or either Houses of the Legislature of the State . . .’

“ Sir, I find nothing in these articles to warrant the assumption of the Hon. Minister that the Election Commissioner is the superior authority to this legislature or that the Government of India is the superior authority to this legislature. My contention is that the only authority in regard to the framing of the electoral rolls and the conduct of elections in general and the delimitation of constituencies in particular is Parliament, and if Parliament does not make suitable provisions in these regards, in all States it is left to the Legislature of the State concerned to do it and not to the Election Commissioner or to the Government of India. I think we must keep the Constitution well in our minds in trying to see how far we can give away our liberties which we have been freely giving away in the past.

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“Sir, the next point I would like to mention is this. The Election Commissioner came here and held conferences. Who were the people who were invited to the Conference? The leaders of parties or people who were supposed to represent parties and people who owe some allegiance to this party or that party. In my view, the chief persons who are most interested in the elections are those who do not belong to any party, because they can bring to bear an independent mind and a fresh outlook towards these questions which the party people are incapable of bringing, not because they have any personal weaknesses, but because party mandates and very many other things come in their way. I do not quarrel with it. That is the way of the world and that is how we have been proceeding in these matters of elections.

“Sir, the Hon. the Finance Minister gave us an exhaustive account of what he considered to be the fundamentals in regard to elections. I had the privilege of listening to him yesterday, and in order to refresh my memory and grasp the points without any doubt whatsoever, I have carefully gone through his speech so well reported in one of the morning dailies. The first point that he tried to make out was that there was an extension of franchise. We realize that the franchise has been extended and we are going to have adult suffrage, more or less suddenly from the very, very limited franchise. Adult suffrage is an experiment that has never been tried in any other country in the world and an experiment also in another respect which is unique in its possibilities and potentialities. Sir, no civilized country in the world has given adult suffrage to voters, 80 per cent of whom are illiterate.”

THE HON. SRI K. MADHAVA MENON :—“Travancore State has given it.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“But 80 per cent of the people are not illiterate there. My point is that Travancore, like the United States and the United Kingdom has given adult suffrage when the majority of the people are literate. I entirely agree with my Hon. Friend, the Law Minister, but in this particular case we are giving adult suffrage to an electorate, 80 per cent of whose members are illiterate. I would like to be corrected if I am wrong. We must clearly understand that we are jumping from a very, very limited franchise to a franchise of a scope unexampled in the democracies of the world. We should also realise that the franchise is given to an electorate 80 per cent of whom are illiterate. These ought to be borne in mind.

“The Hon. Minister has drawn our attention to another unique feature of the Constitution. We accept it and I am not quarrelling with it at present. That feature is that we have done away with special electorates. We have done away with communal electorates for Indian Christians and Muslims. We have also done away with representation for many other interests which the Hon. the Finance Minister mentioned in his speech. The

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Constitution has removed representation for special interests such as women. They do not want it. They were vociferous in asking that they should not be treated in any different manner. I am glad and I congratulate them on that. The Constitution has also removed representation in regard to Labour, Landholders, Commerce and Universities. I want this fundamental fact to be kept in mind when we are considering how we should approach this question of electoral reform under the present circumstances. Remember that we have removed it because we do not want special representation; but I do not think anybody will challenge me when I say that it is desirable that members who are women should be made available in the Legislatures; members who represent labour should be in the Legislatures; members who represent landholders—I do not know whether there may be any doubts in the party in power to-day, but I for one think that the landholders, in spite of all their vicissitudes and fortunes, are still able to give a point of view that may be useful in this House, Landholders as well as Commerce, Universities. Well, I do not at all doubt the fact that when 80 per cent of the voters are illiterate, the Universities may have no place in this Legislature (laughter) and perhaps it would be as well. In any case, the point I want to emphasize and I want this House to grasp is that when you have done away with all these interests and when you are for the first time experimenting in a manner that—I repeat again—has never been thought of in any civilized country where there are the same conditions—all these you must think of, so that the avalanche of adult suffrage may not land you in a morass which you little expected at the time when for the sake of keeping abreast of the times and showing to the world in paper how enlightened you are, the Constituent Assembly rushed to the conclusion that adult suffrage was a good thing. Sir, many of us are carried away by slogans. The whole trouble with this world is slogans and it is increasing every day—and I am not surprised that given the same ideas, slogans have prejudiced the minds of men who are a little more greedy. My point in referring to it is this: the necessity for taking steps to see that this adult suffrage will not be like the churning of the ocean resulting in not nectar turning up, but something else. In those good old days there was somebody to drink this poison; but to-day I wonder if the Congress Party or any other party in the Legislature will have sufficient courage to drink this poison when it comes. Sir, I am saying it with reference to the question that the hon. Member discussed at great length. He referred to the question of single-member constituencies and multiple-member constituencies and he spoke with great warmth about the desirability of having single-member constituencies. He said that single-member constituencies would reflect the opinion of that particular constituency, that the member concerned would be in a position to go to that constituency and say what exactly he has done and that therefore single-member constituencies were undoubtedly far superior to multiple-member constituencies that may be set up. He referred also to the fact that to the State Legislature, a

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district may send two representatives who may belong to two different parties. Now, what will a single-member representative mean? In the Nellore district itself, Buchireddipalayam as a single-member constituency may send a person with one type of political ideology; Gudur on the other hand, may send one of another type of political ideology and in the district which my hon. Friend Mr. Govindachari comes from, there may be a third kind of ideology that may come in. Can you therefore say that Nellore represents a particular ideology or Krishna represents a particular ideology? This is a question of ideal for a particular individual member and constituency has no relevancy whatsoever. Members may come to the Legislature and change their seats after becoming members of the Legislature. Such things have happened. Could you then say that it is possible for a member to go to his constituency and say what he represents and what his views are? The truth of the matter is that in all these cases, it will depend on the individual concerned—how far he is in touch with a particular subject, and how far he is not in touch with that particular subject. Sir, this question of single-member constituencies and multiple-member constituencies has been dealt with in other constitutions as well. I should like to state that we are not the only persons who are troubled with this particular question. When you have—and I feel quite correctly—done away with special representation, it does not mean that you should not take note of the fact that these special representations mean that there are special representatives who yet must have a chance, and a reasonable chance, of coming through your general electorates.

“ Let me give you something from the Constitution of Ceylon that has come into being in recent years. That Constitution will be an eye-opener to many members who may care to read it and compare it with our own Constitution. The Constitution of Ceylon was framed under the advice and guidance of one of the most eminent constitutional lawyers of the day, Sir Ivor Jennings, at present the Vice-Chancellor of the University of Ceylon. Speaking about these single and multiple constituencies, Sir Ivor Jennings, after referring to the territorial constituencies—which I shall refer to later on—states as follows :—

“ In agricultural countries like South Africa and Australia, there is the additional factor that the rural population on whom the wealth of the country largely depends, must be given some weightage against the more concentrated and more highly organized urban population; and in the Union of South Africa there is the additional factor that the farmers are mainly Afrikaner while the townsmen contain a higher proportion of people of British origin. It was realized that if the same principle was applied in Ceylon there would be several advantages. First, and most important, it would provide increased representation for minority communities without introducing communal representation, to which the Ministers were opposed. The Tamils and Muslims are mainly in the comparatively sparsely populated Northern and Eastern Provinces, while the Indians are mainly in Uva and Sabaragamuwa Provinces. It will be seen that these four provinces obtain 13 of the 25 additional members.”

“ Sir, if hon. Members were to refer to the Constitution of Canada, which is another of those States where such differences do exist,—let us not think that it is only in India that such differences exist—there are such differences in Canada, differences

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between the French Canadians and the English Canadians are as pronounced as differences can be between any two different sections of the people, based on religion, caste or community. It is stated there that in order that these people may have reasonable chance of getting into the Legislatures, special provision was made through representation, not by any direct method of representation of the interests concerned, but by constituting the constituencies, giving them not single-member constituencies, but multiple-member constituencies, to go into the Legislature in a reasonable degree, so that their views also may be utilized. The Hon. the Finance Minister in a moving speech towards the close said that it would be the duty of the Congress Party to see that those sections of the people who had been denied separate electorates were not lost in the electoral contest, and that something would be done to safeguard their interests. I would add my congratulations to him on the cosmopolitan outlook that he has brought to bear, but may I say that he may not be able to deliver the goods? It is one thing for the party or for any political party to put up candidates, it is quite another thing for that party to ensure that the candidate will be returned in the election. Forces are at work, prejudices are so largely brought to bear particularly at the time of elections, that there can be no question whatsoever that with the best of intentions, the Congress Party or any other political party may find that it is not in a position to deliver the goods. I will not say that good intentions are in themselves bad, but I will certainly say that it requires more than the assurance given by the Hon. Finance Minister, to suggest that the varied interests can be represented in the Legislatures of our country.

"Sir, the next point that the hon. Member spoke of was delimitation of constituencies."

MR. CHAIRMAN:—"While on this, may I know what the hon. Member suggests to bring in ladies?" (Laughter.)

DR. A. LAKSHMANASWAMI MUDALIYAR:—"Sir, I am very much afraid of speaking on their behalf. I have always thought that discretion was the better part of valour, especially with two of them sitting behind me—and I cannot see them now: but I would like to state that women are so strong everywhere that I think they will conquer more seats than men can do. (Interruption.) My forty years of intimate experience with the psychology of that sex, is not lightly to be thrown away. But I shall now proceed.

"Sir, the most important thing is the delimitation of constituencies. All else pales into insignificance before it. The Hon. Minister has not referred to anything relating to delimitation of constituencies; he has tried to make it that the Election Commissioner will somehow or other delimit constituencies and also that the Government are trying to delimit the constituencies and send up their proposals to the Election Commissioner and for the time they are confidential. I fail to understand why they should be confidential; on the other hand, it is the duty of the Government to tell

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us everything; there can be nothing confidential from this House. The hon. Member says that on a future occasion he will let us know; what we want to know is not whether Repalle belongs to this particular group or that particular group, but have you had any principles at all in trying to see what these delimitations are to be. May I, in this connexion, suggest certain principles? Here again, let me refer to the Constitution of Ceylon. As I said, our Constitution is unfortunately very vague and sadly deficient in this particular respect. Who is to decide about delimitation of the constituencies? Let me quote from Part IV of the Constitution of Ceylon—

‘Within one year after the completion of every general census of the island following the general census of 1946, the Governor shall establish a Delimitation Commission.’

not the Government of Ceylon, please note.

‘Every Delimitation Commission established under this section shall consist of three persons appointed by the Governor-General who shall select persons who he is satisfied are not actively engaged in politics. The Governor-General shall appoint one of such persons to be the Chairman.’

‘If any member of a Delimitation Commission shall die, or resign, or if the Governor-General shall be satisfied that any such member has become incapable of discharging his functions as such, the Governor-General shall, in accordance with the provisions of sub-section (2) of this section, appoint another person in his place.’

I want it to be made known to everybody in the Legislature and in the Centre that the delimitation of constituencies should not be the responsibility of the Government of the day but that it ought to be the responsibility of an impartial body who must be appointed, not by the Government of the State but by the Governor, or the President of the Republic. Let me again quote what has happened”

THE HON. SRI B. GOPALA REDDI:—“I do not know whether the hon. Member has seen the Representation of the People’s Bill that has been adopted by the Parliament and according to some of the sections thereof, delimitation of constituencies is entirely their responsibility and that of the Election Commissioner. The State Government does not come much into the picture.”

DR. A. LAKSHMANASWAMI MUDALIYAR:—“I want to know what is the authority to begin investigation about delimitation of constituencies. It is not a question of who is going ultimately to approve it, but the very fundamentals of the delimitation of constituencies must be in the hands of persons who are not connected with any political party or with the Government of the State. If these fundamental principles have not been acceded to, then our Constitution is very defective in that particular respect.

“Sir, there are other countries which have suffered from this tendency of allowing delimitation of constituencies to be in the hands of the Government. Let me make this quite clear now, and I do not want to repeat it. My observations have nothing to do with the Government of the day; my observations have nothing to do even with this State but my observations are meant to be for

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all-India purposes, for all the States and for those who have the responsibility to take note of them. I am also going to ask at the end of this debate that the discussions of this Council should also be forwarded to those authorities to whom, in the opinion of the Government, they may be forwarded. So, in the criticism that I am going to offer, let not any of my friends think that I am offering criticism against this or that proposal of the Government. I do not know those proposals at all—and I am glad I do not know them till this particular day. This question of the delimitation of constituencies is a new problem with many democratic countries which have ushered it in their own constitutions. Take the question of Canada—

‘The early method of dealing with redistribution was for the Government to introduce into the House a Bill which gave the constitutional allotment of seats and outlined in detail the altered boundaries of the newly drawn constituencies. The Bill was then put through Parliament like any other Government measure. This does not appear at first glance to be very objectionable; but it was accompanied in practice by a shocking abuse of the Government’s power. The Cabinet in 1872, 1882 and 1892 used the opportunity to draw the constituency lines so that they greatly favoured its own party. This was especially flagrant in 1882 when forty-six constituencies in Ontario were gerrymandered, although in this instance popular indignation was so aroused that it is possible the act may have actually recoiled on its creators.

‘The system was altered by Sir Wilfrid Laurier at the redistribution in 1903, when the detailed determination of constituency boundaries was referred by the House to a Select Committee on which both political parties were represented.’

3-15 p.m. That is one of my points. If there is to be a delimitation of constituencies, if there is to be a recommendation for proposals to delimit constituencies, it should not be the responsibility of the party in power, but it should be the joint responsibility of the party in power and the party in opposition.

“Sir, there are other methods which the subsequent framers have followed. One was, that there should be for every place two distinguished persons unconnected with political parties, who would join with the particular Election Commissioner in dealing with the question of delimitation of constituencies.

“Sir, there is another problem that arises out of the delimitation of constituencies. In every other State, for the General Constituency for a Provincial Legislature, at least for our State, there would be about 150 thousand, of whom 75 thousand would be voters and five times this number would probably represent the number for the Central Legislature. How are these 75 thousand voters to be gathered? What are the principles which this Government have in view? Is it by an arithmetical method they could get a constituency which has 75,000 voters or are there any other principles which they would like to adopt or ought to adopt? Have they given their attention to this particular aspect? One of the most important things to remember in this connexion is the difference between rural and urban constituencies. In many constitutions, it has been clearly laid down that, while this number of 75,000 may be the reasonable figure, there should be no exact limitation of numbers and that any general urban constituency should have a larger number and a rural constituency should

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have a smaller number. For purposes of effective canvassing of the voters, the urban constituencies have always an advantage over the rural constituencies.

“ Sir, let me read further. ‘ Two important principles have been generally accepted in Canada as justifying a departure from the general rule of the approximate equality of the constituencies. First, municipal and county boundaries should be followed when at all possible.’ That is one of the most important things. For the sake of collecting 75,000 people, you cannot go into any area, whether rural or urban, and say, I shall take this village or I shall take that village, or the other village and put up together that particular area so as to get 75,000 voters. In that manner of apportioning, there are two dangers. First of all, it will not be such an adult franchise electorate as one would like. Secondly, the manipulations to alter the size of a particular constituency are easy by getting such apportioning of the size of those constituencies. It is for these reasons that a great deal of care has been bestowed by them. ‘ It is considered far wiser to over- or under-represent an area than to dismember districts which have established traditions, long history and strong local pride and character. Secondly, rural areas should be more generously represented than urban, that is, the population of the rural constituencies should be definitely less than that of the City constituencies. This is justified on several grounds.’

“ I shall not read all the grounds, but they are very important grounds and I am sure, on consideration, we shall be in a position to see that they are very fair grounds.

“ Now, Sir, I was referring to the single-member constituency and the multi-member constituency. I have said that apart from the question of any interest based on race or religion, there are important considerations and it is one of the fundamentals that such interests should not be absolutely neglected. No principle is ever lost by having a dual-member constituency with at least restrictive vote. It is true that, when we have multi-member constituencies, we may have the cumulative method of voting, restrictive method and proportional method of representation. (Sri A. Govindacharyulu: ‘ With distributive voting.’) Yes, distributive voting is there. Apart from that, it is true that voting is common. The danger of the cumulative vote is excessive plumping of votes. If there is a four-member constituency, you can very well say that one member can give all the four votes to a particular person. There are, as I said, certain limitations in regard to that which will not be altogether desirable. I discard the question of proportional representation, because of the enlightened nature of our electorate. It is impossible. Therefore, the only other method of dealing with that is by restrictive voting where you give the power to a person to exercise two votes. If he does not choose to do so and confines only to one vote, there must be nothing to prevent him from doing so. Now that restrictive method, which I have said is not a negation of the accepted principle of representation in the Legislature, ought to

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be given, and the only method of giving that restrictive method of voting is by plural-member constituency. I would go further and concede, so that there may be a little more of unity in our nation, that I am not in favour of 'Pancha Pandavas' (as one gentleman has suggested), I am not in favour of five or four or three seats. There should be no difficulty whatsoever in having the dual-member constituency, because such constituencies exist in South Africa, Canada and Australia and the latest example is Ireland. I do not think we can say that those constituencies have been blighted by such a system. I would plead with my colleagues that, when we are trying a new experiment, apart from sectional interests being represented, you must put some obstacles in the way of adult franchise proving, as I said, an avalanche of destruction, instead of construction. If hon. Members feel much more optimistic, I shall not quarrel with them, but I am not prepared to change my view as to what may come out of adult suffrage.

"The Hon. Finance Minister said with regard to some of the experiments that he was going to try, that so far as the elections to the Legislative Council were concerned, the single transferable vote would be conceded. I believe, he said, that it was already in the Constitution and we had, therefore, to accept it. He also added that at least two seats will be open for the single transferable vote. I do not know whether there is any necessity to limit it to a small number. As a matter of fact, the single transferable vote has proved very workable, if not a success in this Presidency. To the Council of State of old, we had the single transferable vote with four seats. But, I can speak with some little knowledge and, if I may, with some authority, that the single transferable vote proved a great success in the University elections where 30 seats have been reserved for the Registered Graduates of the University where over 12,000 voters exercising their franchise with single transferable vote for 30 seats. If that was a success, I do not see any reason why in the Legislative Assembly with 300 odd members, the 25 seats allotted to them should not be on the principle of single transferable vote without trying to delimit the constituency. I do not say that is the intention of the Hon. Minister at present."

THE HON. SRI B. GOPALA REDDI:—"It is indirect election to the Assembly and for the Council, it will be only by the unlimited manner, and for all the 24 seats that are thrown open, they can vote as they like. If you come to local bodies, all the members of the district boards, municipalities and the major panchayats may be on the electoral rolls and if the entire Presidency has to be one constituency, the right to give preference to someone under the single transferable vote, I think, will not work well."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"I was coming to that point. So far as the local bodies are concerned, I would suggest a certain territorial representation which should not exceed, in my opinion, four, probably three will be quite sufficient. I quite realize the necessity for territorial representation

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along with the principle of proportional representation. So also in the case of graduates and teachers, a fairly large territorial representation is much better. My point was that and I do not think the limitation to two—although the Hon. Minister did not say he would limit it to that—but he said not less than two—would be correct, but I wanted to give these people a very much larger number, because the very basis of proportional representation is that the larger the number of seats available, the better will be the results of proportional representation or the privileges."

MR. CHAIRMAN :—" The idea is that, in regard to the graduates and teachers constituency, the number is only six, that is, six from the graduates and six from the teachers and if you divide the area into two and three, it will not be more than two."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" That is true. At the same time, having had experience of the University Graduates' constituency elections on the principle of proportional representation, the registered graduates being from Delhi to Cape Comorin and from Mangalore to Madras, I do not feel there is any insuperable difficulty, not because of the number of seats. While I know the division of local bodies will be on the territorial basis, with a small number given to teachers and graduates, there is not much point in dividing them on a territorial basis, because unlike local bodies, they do not represent any territorial element in that particular constituency."

THE HON. SRI B. GOPALA REDDI :—" We have not yet taken any decision on the matter and we are only waiting for members to give suggestions. Now the enumeration is going on."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Provided this point will be kept in mind when the decision is taken, and when they are making their representations.

" Sir, I am glad the Hon. Minister has suggested that the watcher will be done away with.

" Now, I come to the question of the conduct of elections. The Hon. Minister has suggested that the ballot-box will be according to particular colours of the candidates. I wonder if he has calculated the number of colours? It will not be possible as it would have to be dependent on the number of candidates."

THE HON. SRI B. GOPALA REDDI :—" Under the single member constituency, they would not be large."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Supposing, there are four political groups and a few independent members whom you cannot easily control. Are you sure you can produce 16 colours? Let us not think it is going to be a jigsaw puzzle. With adult franchise, I do not think that Tom, Dick and Harry will contest the elections and that there are difficulties. At the same time, I realize that with an illiterate group of voters, there are other difficulties also. Now, although the party system has come into

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vogue, and many countries are adopting this device of party label, still I must say that if you go through the essentials of democracy as they were defined in the Cromwellian regime, which was the first to be considered as the body of public opinion to think of democratic institutions, you will find that political parties had no place in a democratic form of Government. Each individual came in by virtue of his own right and eminence, whether by intellect or otherwise, and he represented the best that could be found out of that circle, by a vote which can represent the views of the community. Much water, I realize, has flown under the bridge since and, at the same time, I do not know whether this system of colours which was undoubtedly suggested for the first time by the Franchise Commission, is at all the most satisfactory method of dealing with the question.

“ Sir, I come to the last point, namely, free and fair election. I am sure that everybody in this country is anxious that there should be fair and free elections. This question of fair and free election has been unfortunately mixed up with other ideas and gentlemen, who are very responsible, have suggested that to ensure fair and free elections, there should be no Government at all. At least the party in power which forms the Government should be turned out before the elections. I cannot think of a more insensible method of approach to this question of fair and free elections, for if there is need for Government, it is much more at the time of elections than ever before.

3-30
p.m.

“ People who talk of the Ministry being turned out before an election do not realize what forces will be let loose if there is not a stable Government at the most important period of electioneering. We are familiar, much more familiar than the people in other parts of India, through our experience with the methods of elections adopted in a neighbouring part of the country (the Hon. Sri B. Gopala Reddi: ‘ Pondicherry ’) and we do not want to emulate their example. It is true that we are dry and the example may also be a little more dry. But, Sir, what are the facts of the case? For the first time in the electoral history of the country we are conducting elections with a Government in power to supervise some of the methods that may be adopted at election time. I was glad that the hon. Member said that the previous political party which was in power did not interfere with the elections and it certainly did not interfere with the particular opposite political party coming in large numbers. While it is true and I appreciate that compliment, let me also make it clear that till now the elections were conducted with the Law and Order being in the hands of persons who did not belong to any political party and whether it was the election that was conducted from 1921 to 1937 when there was the Reserved Half of the Government to look to elections and not the Transferred Half or whether it was the election conducted in 1946 when there was the Adviser Government attending to elections and not any political party, elections were conducted by people who were not concerned with any political party. That does not detract from

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the compliment that the Hon. Minister made because I know that the party in power never interfered and never sought to interfere and even when certain discrimination was made against that political party, they did not care to interfere. It does not mean that when a political party is in power, things may not go as smoothly. But what I want to ask you is this: There are certain privileges that the Government in power can enjoy and these privileges are well-known and there are certain limitations to the privileges that they can enjoy. I am not at all worried that this Government is in power and I want this Government to be in power. Let me take some of these privileges. The radio is a very fruitful medium of propaganda; it has been so in all countries. In England the British Broadcasting Corporation which is not Government-controlled, does not discriminate between political parties. In fact when propaganda is allowed through the British Broadcasting Corporation the leaders of different political parties are asked to assemble to discuss and to apportion time that ought to be allowed and the days that ought to be given to each one of the leaders to speak through the British Broadcasting Corporation. But in America things are different; there is no Government-owned Broadcasting Corporation and neither is there a Corporation which is subsidized by the Government. America is entirely free and there are three or four of these big broadcasting corporations and each one of them gives complete freedom to anybody to speak provided that necessary dollars can be found by the person who wants to speak. I have listened to these addresses when I was in America in 1948 in connexion with the presidential elections and I know with what gestures and in what language discussions took place but the one thing is that nobody takes them seriously because the ultimate result will be that each one will try to smash the other. Now, what is the position of the All-India Radio of this country with regard to election propaganda? Has this Government, or the Central Government adumbrated any scheme by which the All-India Radio is going to be used whether by the Government officials or by the Ministers or private individuals for any particular purpose of propaganda and what check will there be on the All-India Radio? I am glad that the Government of India itself is bestowing attention upon this particular subject and probably they will see that no political propaganda for a period of, say, fifteen days or a month before the date of the election, shall be indulged in through the All-India Radio. The Government may wish that their policies, their achievements and their mode of conduct should be the subject of a certain amount of propaganda but my point is that they may do it before but not at the time of the elections.

" Then Sir, I refer to Law and Order. My Hon. Friend will bear with me for a while because these are problems that will come to him which will be even more difficult than many problems which he has got to deal with to-day, the question of propaganda, the question of the creation of racial, communal or other hatred, the question of ways and means that are to be adopted by different political parties. It is here that the trouble comes and it is not

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in the ordinary election booth but in the days previous to the election when charges will be made, counter-charges will be made that the Government is partial to this party or this person or that, or this political ideology or that and puts obstacles in the way of that political party to carry its own propaganda. I will readily concede that some of the political parties may actually foment trouble and see how far the Government can be forced to take measures against them for that is one of the methods of securing an electoral triumph and it has been done in many other countries. I want this Government to realize the trend of events and see how far fair elections may not be possible. I may be asked : What is your suggestion? I have been a silent voter at all these elections and I have seen many of them. You are simply dragged into the polling booth where there are great men's portraits

THE HON. SRI B. GOPALA REDDI :—" Within the booth? "

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Not within the booth but on the way to it in the narrow street from which you cannot escape—like the Jallianwala Bagh and you have to go through many of them. I do not know if my Hon. Friend has experienced it; perhaps he has not in the rural life of the country where he comes from but if he were in the City of Madras and if he had attended even an ordinary election, he would have realized that there is a great deal that can be said about the methods of coercion. I feel, Sir, that the Government of India and the State Government should come to a conclusion that they will not allow any propaganda to be done some days before the date of the election, no procession, no propaganda, no public meetings for a period—I would have said, for one week, but I shall be content with three days before the date of the election. That should be the general rule. That is one of the proposals that I would make to maintain Law and Order."

THE HON. SRI B. GOPALA REDDI :—" Can you gag the press for three days prior to the elections? "

DR. A. LAKSHMANASWAMI MUDALIYAR :—" The press is not the most important part and I think we are paying too much attention to it."

THE HON. SRI B. GOPALA REDDI :—" What about such publication as the Zinovief letters? "

DR. A. LAKSHMANASWAMI MUDALIYAR :—" If there is a press which undertakes the sort of propaganda like the Zinovief letters, it should be left alone as the Zinovief propaganda was. You will be surprised to know that in the United States of America, the most wild statements are made in the press and nobody takes them seriously. If one section indulges in it another section meets it. But pamphleteering and any type of propaganda must be stopped at least three days before the date of election. I do not suggest that this is an ideal method of regulating it, but this is one of the methods to prevent Law and Order breaking in an election such as we have got to face.

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"The hon. Member, Mr. Ibrahim, wanted dead men not to become alive and alive men not to go dead; that is a very difficult proposition indeed. But the question arises how we are going to get over this question of substitution of personality. I myself figured in a case in a court of law under similar delicate circumstances. I thought I was one of the few who could not be impersonated except it be by the members of my own family (Laughter). Unfortunately, I found from the proceedings of the court that a young man of 22 or 23 years was able to impersonate me; he got into the booth and got the ballot paper. I was all the while trembling whether I shall be called in as a witness in the court but fortunately I escaped. Let me say, Sir, that impersonation will be the order of the day and I ask the Government what steps they are going to take to prevent impersonation. I would suggest the following course. A card is given previous to the date of the election by the Election Commissioner or whoever it may be and the voter takes this card with the number on the roll and shows it with the photograph attached to it to the person sitting in the polling booth. If he is satisfied, he allows him to go and vote; if he is not satisfied, he is prevented from exercising his franchise. I would suggest this course though this would be a costly business but then you do not want the army of people to identify them and you do not have any need for challenged votes. I know, Sir, that this is costly business but I know that there is such a system as mass photography and that is not an idea which can be ridiculed so easily. Let me assure you that there is no other way of preventing impersonation when we have adult franchise; it is only at the time of the elections that the dead come back to life and resurrection takes place (Laughter) on a large scale. I have known it and if we have not taken steps to prevent it, it is because all of us are in a way cowards and we have not seen how this system of mass photography will help us to prevent impersonation."

THE HON. SRI B. GOPALA REDDI :—"Difficulties might also arise there; the Chairman has removed his moustache and he may not be identified for that reason."

DR. A. LAKSHMANASWAMI MUDALIYAR :—"I also suffer from the same disability (laughter) but I am glad to say with moustache or moustacheless, I am recognized."

"That is why I suggest that mass photography must be done (An Hon. Member: 'What about ladies?'), I certainly think that ladies would like it better than men and there is no difficulty in attempting it."

JANAB K. UPPI :—"How is religious objection to be overcome?"

DR. A. LAKSHMANASWAMI MUDALIYAR :—"You need not worry about those who have got religious scruples."

"Lastly, I would beg of the Hon. Finance Minister to take note of what I have said in a spirit of constructive criticism not

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with a view to impede the Government from discharging their task when we are experimenting at a time, at a most difficult time, in a most difficult task that any civilized country has been faced with; let us not, therefore, take it lightly; let us proceed with a great amount of reasoning and if we take care to see that there is some amount of discussion and consultation with different members to see how best we can secure the end we have all in view, I feel that even now with all the difficulties, troubles and turmoils of adult franchise, we may perhaps escape more safely than many other States. Thank you, Mr. Chairman."

THE HON. SRI B. GOPALA REDDI:—"What is the system of voting the hon. Member would suggest for a double-member constituency?"

DR. A. LAKSHMANASWAMI MUDALIYAR:—"Distributive voting."

SRI R. SURYANARAYANA RAO:—"Mr. Chairman, Sir, I also join in the chorus of congratulations to the Hon. Finance Minister for his lucid exposition of the franchise question, its present position, what is proposed and why it is proposed. But that does not mean, Sir, most of us agree with what all he said, or agree with all the proposals he has made. Sir, in the course of the discussion on His Excellency the Governor's Address, I raised the point why this Government did not appoint a committee, call it delimitation committee or franchise committee, whatever may be its appellation, to assist Government in formulating their proposals.

3-45
P.M. "Sir, in the past, if only one looks into the history of franchise in this Province, as the Hon. Minister himself pointed out yesterday, on every occasion of reforms and extension of franchise, Government were assisted by a committee. Sir, this is the only occasion when Government have not chosen to take the assistance of a committee. If a committee had been appointed, as Mr. Lakshmanaswami Mudaliyar pointed out, consisting of representatives of different parties or different groups, perhaps the suggestions it would have made, would have enabled Government to know the strength of feeling between the different systems that can be adopted. It is true, Sir, an Election Commissioner has been appointed; he has made his proposals, and the Government perhaps have considered them and have arrived at their own decision. Sir, it would have been more helpful to Government themselves if such a committee had been appointed. Sir, what I am suggesting is not a novel one; it is not a novel idea at all. In the United Provinces, a committee was set up, and that committee formulated proposals, the Government considered them, and then, they were placed before the Assembly and were debated upon. Sir, similarly, why not also this Government seek the assistance of a similar committee to enable them to frame proposals in accordance, as far as possible, with the wishes of the various parties and groups that exist.

"Then, Sir, we must also pay our tribute to the Election Commission of our Province. Perhaps Commissioners of all provinces deserve our tribute. For, whereas in the past, it took

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two or three years to formulate proposals, this time we have completed our proposals in the record time of eight months. A great Herculean task is being sought to be performed by our Government; and I must say, whatever may be the opinion of certain groups, who may not be satisfied with the nature of work turned out, as far as we know, the work done in our State has been as satisfactory and as thorough as it can be under the circumstances.

Then, Sir, Dr. Lakshmanaswami Mudaliyar and other friends talked about multi-member constituencies. Dr. Lakshmanaswami Mudaliyar also made a suggestion that there may be dual-member constituencies. I do not want to restrict myself to dual-member constituencies. My suggestion is that the principle of multi-member constituencies should be accepted. As regards dual-member constituencies, Government have already accepted the principle in the fact that wherever there are joint electorates with reservation of seats there should be dual-member constituencies. For reservation of seats cannot be done unless there is a dual-member constituency. My point is, even these dual-member constituencies, where reservations are made, should be converted into multi-member constituencies to enable various points of view to be represented in the legislature. Sir, is it contended that in a single-member constituency it will be possible for any minority, however respectable it may be, whether based on political opinion or religious difference, to secure any chance of being represented in the legislature? Sir, this subject engaged once the attention of a provincial committee on delimitation. It was in 1936. They went into this question at great length. Though the majority was in favour of single-member constituency, the minority of that committee have reasoned out at some length why they preferred multi-member constituencies. As their observations sum up to a great extent my arguments in favour of multi-member constituencies. Sir, with your permission, I shall read them. They said :

‘However regrettable this undesirable state of things, such as communal feelings and communal strife they have to be recognized, a Kamma for a Kamma, a Kapu for a Kapu, a Brahman for a Brahman, a Nadar for a Nadar, a Mudaliyar for a Mudaliyar, a Kavandar for a Kavandar, these and other slogans have come into vogue during the past ten years, and it is difficult to say when they will disappear. We are eagerly looking forward to the day when these religious and class antagonisms will be eliminated from the political life of this country. In these circumstances, the selection of single-member constituency in a country consisting of different races, castes and sub-castes, different shades of political opinion and different political parties with different political and social programmes is an unsuitable method of securing proper representation of minority opinion and of the various shades of political opinion in the Legislature. Single-member constituency will perpetuate the domination of a class of individuals and the minority opinion will never have a chance of being represented in the legislature. As pointed out in the Government memorandum, the minorities stand a poor chance of representation. In areas where one caste predominates, all the seats in that area are likely to be captured by that caste. This is a very vital consideration in deciding whether the single-member system should in the present circumstances be adopted in this Presidency.’

MR. CHAIRMAN :—“ How does multi-member constituency representation solve the difficulty? ”

SRI R. SURYANARAYANA RAO :—“ For a respectable minority, a distributive vote will be helpful. If it is a cumulative voting system, it will not be helpful.”

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is leaking, it is difficult for the tenant to run to the Accommodation Controller and take his permission for small repairs costing Re. 1 or Rs. 2. For such small repairs, it is not absolutely necessary that the tenant should think of recovering one or two rupees from the owner. If it is a minor repair, the tenant himself may attend to it. If it is not a permanent repair, the tenant must be able to attend to small things. If it is really anything expensive, he can apply to the Accommodation Controller and adjust one month's rent towards the repairs.

“Sir, I have nothing more to add except my assurance that we would certainly bear these things in mind and place the facts before the Joint Select Committee and try to do what best we can, taking all the difficulties into consideration and also the defects in the Act pointed out by hon. Members of this House.”

MR. CHAIRMAN :—“The question is—

‘That this House concurs in setting up a Joint Select Committee of the two Houses consisting of nine members (six members from the Assembly and three members from the Council) to consider the Madras Buildings (Lease and Rent Control) Second Amendment Bill, 1950, and that the following members of this House be nominated to the said Joint Select Committee :—

(1) The Hon. Sri K. Madhava Menon.

(2) Sri H. M. Jagannatham.

(3)-Sri P. R. K. Sarma.’ ”

The question was put and carried.

(6) THE LEGAL PRACTITIONERS (MADRAS AMENDMENT) BILL^a 1950
(L.A. BILL NO. 15 OF 1950).

THE HON. SRI K. MADHAVA MENON :—“Sir, I beg to move—

‘That the Legal Practitioners (Madras Amendment) Bill, 1950 (L.A. Bill No. 15 of 1950), as passed by the Legislative Assembly and transmitted to the Council, be taken into consideration.’

Sir, this is only a very minor amendment enabling the pleaders in Pudukottah who had got themselves enrolled as life pleaders while the Pudukottah Durbar was there to continue as pleaders in this State without paying any additional stamp fee. They have to take a renewal, but they need not pay Rs. 25 since they have already paid a consolidated fee of Rs. 350 to the Pudukottah Durbar and got themselves enrolled as pleaders for life. They will be ordinary pleaders entitled to practise in three districts. They have to apply for renewal only but they need not pay Rs. 25. That is the amendment that is now proposed.”

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MR. CHAIRMAN :—“ The question is—

‘ That the Legal Practitioners (Madras Amendment) Bill, 1950 (L.A. Bill No. 15 of 1950), as passed by the Legislative Assembly and transmitted to the Council, be taken into consideration ’.”

The question was put to the House and carried.

Clauses 2, 1 and the Preamble were then put to the House one by one and carried.

THE HON. SRI K. MADHAVA MENON :—“ I move, Sir—

‘ That the House recommends to the Assembly that it approves of the Bill.’

“ As this is a Money Bill, there must be a recommendation back to the Assembly. There is some difficulty about the position, since this a Money Bill.”

MR. CHAIRMAN :—“ There is no difficulty at all. All the difficulties have been resolved. I have stated my considered views and circulated them to the Speakers and Presidents of the various Legislatures including the Speaker of the Central Assembly. I have got their opinions . . . ”

THE HON. SRI K. MADHAVA MENON :—“ I only came to know of it after the Speaker had certified that it was a Money Bill.”

MR. CHAIRMAN :—“ The predominant opinion is that even a Money Bill should go through all the three stages.”

THE HON. SRI K. MADHAVA MENON :—“ What is the final stage? ”

MR. CHAIRMAN :—“ If we make any amendments here, we send the Bill back with the amendments. We do not call them ‘ amendments ’; we call them ‘ recommendations ’. If we make any changes here, we call them ‘ recommendations ’ and send the Bill back to the Assembly. If we have no recommendations to make, we simply pass the Bill and inform the other House that we have passed the Bill. The Hon. Minister may move that the Bill be passed.”

THE HON. SRI K. MADHAVA MENON :—“ I move—

‘ That the Bill be passed ’.”

MR. CHAIRMAN :—“ With reference to the other Bills, the form of the motion ‘ that the Bill be passed into law ’ is a misnomer and has no meaning. If the Bill comes here from the other House, it does not become law unless it is assented to by His Excellency. If it is taken up here for the first time, it does not become law unless it is accepted by the other House and assented to by His Excellency. As it is done in other countries, the form of the motion should be ‘ that the Bill be read a third time ’ or

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that the Bill be passed', because it does not become law *ipso facto*. I have got all the information about this and I will circulate it to Members. Anyway, the question now before the House is that the Bill be passed without any recommendations."

The question was put to the House and carried.

VI.—GOVERNMENT RESOLUTION.

DELIMITATION OF CONSTITUENCIES AND THE CONDUCT OF ELECTIONS TO LEGISLATURES.

THE HON. SRI B. GOPALA REDDI :—" I move, Sir—

'That this Council requests the Government to convey to the Government of India the following as the recommendations of this Council in regard to the delimitation of the constituencies of, and the conduct of elections to, (a) the Legislature of this State and (b) the House of the People :—

I. Delimitation of Constituencies.

- (1) *Legislative Assembly of this State and the House of the People.—Seats for Scheduled Castes and Scheduled Tribes should be reserved in plural-member constituencies with two seats each, one general and the other reserved for Scheduled Castes or Scheduled Tribes. All other constituencies should be single-member constituencies.*
- (2) *Legislative Council of this State.—There should be not less than two seats in each constituency, with proportional representation with transferable vote.*

II. Conduct of Elections.

- (1) *The coloured box system should be adopted.*
- (2) *The boxes for the General and Reserved seats in plural-member constituencies should be kept in separate compartments in each polling booth.*
- (3) *Watchers need not be appointed.'*

That is the resolution that I want to move. I want to explain the history behind the various proposals and the recommendations of this Government and the instructions of the Government of India. All these matters I want to deal with a little exhaustively in the afternoon. I may be permitted to begin my speech in the afternoon."

MR. CHAIRMAN :—" How much time would the Hon. Minister like to take? "

THE HON. SRI B. GOPALA REDDI :—" About 45 to 60 minutes."

MR. CHAIRMAN :—" Are there a large number of speakers who want to take part in the debate? "

DR. A. LAKSHMANASWAMI MUDALIYAR :—" It will depend on what the Hon. Minister says."

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MR. CHAIRMAN :—" I am just trying to see whether it is necessary to sit to-morrow also, because we are scheduled to sit to-morrow afternoon also if we do not finish this to-day. There will be a simultaneous sitting of the other House also. If we finish to-day, it will be all right. The House will now adjourn and reassemble at 2-30 p.m."

The House adjourned for lunch.

(After lunch—2-30 p.m.)

JANAB ABDUL LATIF FAROOKHI :—" Sir, before the Hon. Finance Minister proceeds to speak on the resolution, I should like to make one request on behalf of the Opposition. This is quite a new subject to us and we want to hear him and understand him. He has promised to be very exhaustive and he has been pleased to promise so. We request that we may be allowed to give notice of amendments to the resolution, after we have heard his speech."

MR. CHAIRMAN :—" Well, we shall see."

THE HON. SRI B. GOPALA REDDI :—" Mr. Chairman, Sir . . ."

MR. CHAIRMAN :—" I may inform hon. Members that Mr. Ibrahim has already given notice of an amendment asking for plural constituencies. That amendment is coming before you now, I have asked it to be roneoed and circulated to you now."

THE HON. SRI B. GOPALA REDDI :—" Who has given notice, Sir? "

MR. CHAIRMAN :—" Mr. Ibrahim."

THE HON. SRI B. GOPALA REDDI :—" Sir, this is indeed a very important proposition that I am moving, and I will explain what has been done by the Government. Our proposals are being sent to the Election Commissioner who, according to newspaper reports and the advice he has sent us, will publish them and invite public opinion. Perhaps a second opportunity will be given to each House of the Legislature to discuss the actual delimitation, how each taluk or each district has been delimited."

MR. CHAIRMAN :—" So, Mr. Sen will publish? "

THE HON. SRI B. GOPALA REDDI :—" Yes, he will publish and invite public opinion."

MR. CHAIRMAN :—" The details of the delimitation also? "

THE HON. SRI B. GOPALA REDDI :—" Yes. At present the delimitation proposals are not being made available to hon. Members but only the general principles of delimitation are being discussed. I shall explain the scheme of things which is being forwarded to the Election Commissioner, and this is just the time, if the House wants to make any representations to the Government

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of India and the Election Commissioner, to do so, so that they may in good time modify their proposals and ask us for alternative schemes.

" Sir, on the 26th January this year, we gave to ourselves this Constitution of India, and we have declared in the Preamble itself that our Constitution shall be based on the Sovereign Democratic Republic, and to secure to all its citizens justice, liberty, equality, etc. It is, therefore, a sovereign democratic republic; indeed it is a democracy, and it is up to us and to the various parties to make this democracy a success. We are still in our infant stage of democracy, of our own rule, and yet we have the experience of various other countries, and we have also been benefited by their experiences.

" Sir, democracy means people's rule; but it is not that all the five crores of people in this State can rule themselves. Necessarily, democracy must imply representative government; and when it comes to the question of sending representatives, there again the whole country cannot be one constituency. It has to be delimited and divided, so that there may be a manageable constituency, there may be direct contact between the candidate and the electors, so that the candidate may feel that he is voicing the wishes and aspirations of the people. Sir, as I said, some of the countries have adopted this representative system of government. There was a time when Mussolini was in power in Italy. He also thought he was administering the country in the name of democracy and he used to prepare a list of 400 and odd members and put it to the people 'Do you approve of the list? If so, vote aye, otherwise you vote no'. That was how he was conducting his periodical national elections. He himself, as the supreme head of the State, perhaps as the Prime Minister under the King, used to prepare a long list of candidates and put it before the electorate. That is not the system we are going to adopt. But, as I said, Sir, we must have some manageable constituencies, and we must divide the districts and taluks so that we may have constituencies, whether single or plural.

" Then, Sir, for the first time in the history of our country, we are embarking upon this new bold experiment of adult franchise. Article 326 of the Constitution lays down that all our elections must be based on adult franchise. Adult franchise means very nearly 50 per cent of our voters on the rolls going to the polls, choosing their representatives and trying to give vent to their aspirations through their representatives. Since all of them cannot be in the Legislatures and enact laws, they act through their representatives. We have also traversed a long ground right from the year 1920 since we had the first experience of these elections. I do not know myself, of course, except what I read in some books, what used to be the nature of elections prior to 1920; but we have a fairly intimate knowledge of what transpired after 1920 since the inauguration of the Montague-Chelmsford Reforms. I think from 1920 to 1937 we had only 3 per cent of the people on the electoral rolls and the Ministers who used to manage the affairs of

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Government in the name of the people under the diarchical system were returned only by a 3 per cent of the electorate. Later on, in 1937 when we had Provincial Autonomy under the Government of India Constitution of 1935, to start with we had only 14 per cent of the people on the electoral rolls. Later on, I think, as a larger number of people with literacy qualification came to be enumerated, it came to about 16 to 17 per cent, and it never exceeded that figure. To-day for the first time, however, this adult franchise is going to give us an electorate of very nearly 50 per cent. In some districts it has even exceeded the 50 per cent limit, and it is really a bold experiment we are trying. Perhaps in other countries, it took a long time for them to reach this stage of adult franchise; for even in England, it was not till 1928 that women of the age of 21 got their votes. For a long time, they were left behind electorally, and they had to strive hard to get themselves recognized as voters, as the legitimate participants in the election of candidates; and after a long struggle and sacrifice they came to be enumerated as voters. But till 1928, if I remember aright, only women above 30 years of age were included in the electoral rolls. Since 1928, however, women and men of 21 years of age came to be registered as voters, and that is how the English electoral rolls stand to-day and all adults of 21 years of age have a right to be enrolled as voters and also to send their representatives to the Parliament.

"We may all remember that the question whether women should be enfranchised or not has been debated in other countries, and even to-day in enlightened countries like France and even in an important province like Quebec in Canada, women have no votes. Perhaps they can stand for the Parliament but they have no right to vote. But here under our Constitution, we cannot discriminate against anybody in the name of sex or in the name of religion, and therefore, all adults of 21 years of age are coming into the electoral rolls for the first time. There is no property qualification, no educational qualification, except of course some residential qualification, and that they should be of sound mind, and such things—there is no other disqualification attaching to any of the electors. Sir, in England where the population is not as much as in the Madras State, they have 675 members. That means their constituencies are much smaller than our own constituencies. In a country where there are only 40 millions of people or 4 crores of people, they have 675 representatives; but here in our own State where the population is 5 crores, our representation in the Provincial Assembly will be 375 and our representatives in the Indian Parliament will be one-fifth of 375, viz., 75. I shall come to it later, it is to be on the multiple vote that we will be sending representatives to Parliament. Parliamentary representation will be 75 from this State and the strength of our Assembly here will be five times 75, or 375.

"Sir, our constitution is also very novel if there is anything novel in the sense that compared to what we were accustomed to in the elections since 1920 onwards and in the 1937 elections, it differs in many respects very fundamentally. I will have to

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explain some of the differences, though some of them are very well-known to our members. The joint versus separate electorate question has been finally settled by the Constitution. That question which was being discussed in all the Assemblies, Councils, the Congress, the Muslim League and various non-official organizations which were all troubled with this problem, has been finally decided by the Constitution in favour of the joint electorate. The question of separate electorate for anybody, be they Muslims, Christians, Anglo-Indians or Europeans, is done away with, and we are now having a Constitution which will not recognize as such any religious or any communal minority.

"Sir, we had a very curious thing in Madras from 1920 to 1937 under the Montague-Chelmsford reforms; we had a sort of reservation for the Non-Brahmans. Each district was a constituency and at least one of the seats was reserved for a Non-Brahman. That is what happened between 1920 and 1937. Thereafter, that reservation was not there; it did not continue. But, separate electorates, with reservation of seats and a little weightage for some minorities like the Muslims and Christians, were recognized by the 1935 Act and we have them even to-day and perhaps they will all be done away with under the new Constitution."

2-45
p.m.

JANAB ABDUL LATIF FAROOKHI:—"What happens now?"

THE HON. SRI B. GOPALA REDDI:—"Even now we have the Muslims and Christians from their electorates. Till we have the next elections, the present Legislative Council and the Assembly contain members who are representatives of their separate constituencies and not a joint constituency. It is only a continuation of the old system of 1935 and the new system has not yet come into force. Of course, they may have also the special seats which were reserved for women, labour, zamindars, commerce and other special interests like the University, but hereafter we shall not have any of these, except the territorial constituencies. There again, we have made a very fundamental departure from the old system and therefore we will have only the territorial constituency everywhere and no special seats to be represented, no special minorities to be represented, except the Scheduled Castes and Scheduled Tribes, and all of them must come into the general pool of the electorate and get themselves returned from the joint electorate.

"Sir, coming to the proposition proper, the main thing has been whether it should be single-member constituency wherever there is no reservation of seats for the Scheduled Castes or the Scheduled Tribes. This question also engaged the attention of many politicians and statesmen in various other countries at various times, yet, I think, the final word on it has not been said as to which is the right type of system through which the popular representatives could be returned to the various Legislatures or Parliament. Even now in various countries there is a wrangle

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between parties and parties as to whether it should be single-member constituency or multi-member constituency with proportional representation or multi-member constituency with cumulative voting, so that the minorities can plump their votes for the candidates of their choice or should it be the multi-member constituency with single non-transferable vote as we had in the case of panel for Harijans where you have got four seats to be filled and every elector has got only one vote for one candidate, while there are four candidates, so that the different minorities can go and plump their votes for their respective candidates and the minorities might get representation.

"Sir, I do not want to be dogmatic and assert that this particular system has its own advantages, because all people who have dabbled with politics have been taking great pains to discuss this problem, various committees were set up to go into this question and various reports have been submitted to the various Governments, but I do not think, as I said, the last word has been said on the subject. To-day, while the United Kingdom and the United States of America also are having only single-member constituencies, there are other smaller countries like Ireland where they are trying multi-member constituencies with proportional representation by means of the single transferable vote. But, Sir, in the United Kingdom, I think, they had a poll in 1938 or so, when they decided to do away with some of the special seats also and adopt the single-member constituency system and right from the beginning, I think, the United States both for the Upper House and the Lower House, the Senate and the House of Representatives, they always had the single-member constituency. As I said, we will have smaller constituencies than in the United States and bigger constituencies than in the United Kingdom. In the United Kingdom, as I said before, there are 675 representatives for a population of four crores of people, while in the United States they have 475 or so for a population of about 14 crores or even more. We are in between, Sir, and our general rule in this State will be one lakh and forty-five thousand people for every constituency. That means 50 per cent of it will be the electors and about 70 per cent of the people will have to enlist themselves, at least a majority of them, so that they can be returned to the State Legislature. Sir, in our State, we had experience of both multi-member and single-member constituencies. During the last thirty years, we have had four elections in the pre-autonomy days, i.e., in 1920, 1923, 1926 and 1930 and two elections under the Government of India Act, 1935 in 1937 and 1946. For the first four elections we had what is called the multiple constituency in our State, while all other provinces, except Madras and Bombay, have plumped for single-member constituency. Even in those days under the Award of the Southborough Committee which sat in 1917-18, Madras and Bombay were allowed to have only multi-member constituency, so that the various communities, only minorities, might also have their little representation in the State Legislatures. Therefore, Sir, from 1930 to 1937 we had the

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multiple constituency. Chittoor, for instance, had two members; Krishna originally had four members with West Godavari also and later when West Godavari was bifurcated West Godavari had two members and Krishna two members. Tanjore, for instance, had three members and Mathurai had three members. Like that either two or three members generally were the order of the day and we had experience of that system from 1920 to 1937 when we had four elections and later on in 1937, under the Hammond Committee Report—of course, the Committee report was one way and the ultimate decision of the Legislature which was accepted by Parliament was another way—we had generally the single-member constituency, while here and there we had multiple constituencies also. For instance in Rajahmundry, we had a multiple constituency which could return two members without any reservation of seats for Harijans and where the Harijan seat was reserved it was generally the multiple constituency. But, we had 6 or 7 constituencies which could return two members. In the Krishna district also, the Bezwada Rural constituency is a multiple constituency where two non-reserved seats are there for joint electorate. In the south also, there are two or three districts where we had the multi-member constituency. We had multi-member constituency in Malabar also.

“ So, Sir, we are in a very good position to decide the relative merits of the two systems, because we have gone through these two systems here in previous years and we will have to decide which is better, which will be more manageable, which will give better results and which will be the better mirror of popular opinion in the Legislature.

“ Sir, under the multiple constituency, we had a very funny election system where public opinion was very difficult to ascertain. For instance, in the Krishna district, in 1926 the Raja Sahib of Mirzapuram was returned along with the Swarajist candidate, Mr. A. Kaleswara Rao. One was attached to the Ministerialist party, namely, the Justice party, and the other was attached to the Swarajist party and if anybody were to ask whether somebody had voted for the Government or against the Government, nobody could say it, because it was all 50—50. Sir, we have always that difficulty in the multiple constituency. While it has its advantages, such curious things happen like that occasionally, when you would not be able to ascertain the wishes of any people on any particular issue of topical interest. Therefore, to some extent it has to be discountenanced on this score. Whenever we go to the polls, we must get the clear verdict of the people on definite issues. It may be at every election there may be some misuse of the mind of the people and people must be able to give their verdict in unequivocal terms whether they like it or not. Whether what has been done by the Government has been approved by the people or generally disapproved, with the multiple constituency, it is difficult on occasions to ascertain public opinion correctly. Likewise, in 1920, from Chittoor, Mr. Muniswami Nayudu and C. R. Reddi were

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returned. Mr. Muniswami Nayudu was a Ministerialist and C. R. Reddi was opposed to the Ministry and he himself sponsored the no-confidence motion against the Ministry”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ That was on a subsequent occasion.”

MR. CHAIRMAN :—“ I think the Hon. Minister said it was in 1920. In 1920, Mr. Muniswami Nayudu and Mr. M. Ramakrishna Reddi were returned.”

THE HON. SRI B. GOPALA REDDI :—“ I am sorry. I thought I said 1923 when Muniswami Nayudu and C. R. Reddi were returned. When later on Mr. Muniswami Nayudu and C. R. Reddi were there, they both belonged to different parties. As I said, that was our experience during those days. But in 1937, no such thing could happen, except of course, in those very limited number of single-member constituencies, because the general run of our system was single-member constituencies. So, we will have to decide which system is more conducive to get the correct public opinion on matters and that is the point on which we want the opinion of the House. Therefore, the very first point of my proposition is that wherever there is no reserved seat, it shall be a single-member constituency and where a seat has to be reserved for Scheduled Castes or Scheduled Tribes, it shall be a multiple constituency. Sir, the experience of other countries also is that and as I said, the Southborough Committee which sat in 1917-18 discussed at great length what should be the system of voting here in Madras. While they recommended single-member constituencies for all other States, because of the very peculiar circumstances which obtained in Bombay and Madras, they did recommend the multiple constituency for these two provinces. Again, the Hammond Committee which sat in 1935-36, with the assistance of the Provincial Delimitation Committee presided over by Mr. S. Muthiah Mudaliyar, went into the question whether Madras should have single-member or multi-member constituencies. A very curious thing happened. In spite of the Madras Government's view that single-member constituency should be the general system, and in spite of the majority view of the Provincial Delimitation Committee, the Hammond Committee which went into the question, of course, on the evidence of the various authorities and on the strength of the minority report, recommended multi-member constituency with single non-transferable vote.

3 p.m.

“ Ultimately, before it was finalized, there was a debate in the Legislative Council on the 11th March 1936 when the Hammond Committee Report was vetoed by a majority in the Council; it was duly communicated to Parliament and Parliament accepted the recommendation of the Council and the single-member constituency was accepted according to the Madras Government's view and the recommendations of the majority of the Provincial Committee. That was the occasion when the Hammond Committee's recommendations were reversed by a decision of the House

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and it may be said to the credit of Parliament and of members who took a particular view upon it, that it had the assent of Parliament. That is the history of the single-member constituency and it is up to us now to decide on the merits of the question. Generally the single-member constituency is preferred in most of the advanced countries, because it is the simplest system that could be thought of and with a large number of illiterate voters who cannot distinguish between one candidate and another candidate, when the party system is still in its infancy perhaps the single-member constituency system is easily the best. A large number of candidates in the multi-member constituency will be baffling to the average rural voter. In view of the general backwardness of our voters who in a large number of cases are coming into the electoral rolls for the first time, they will take a long time to get a degree of literacy needed for political knowledge and so, it is better we adopt the single-member constituency. The second point that ought to weigh with anybody is the manageability of the constituency. There is no use of giving me a big constituency and asking it to return four members, where they cannot do justice to the electors and carry the tenets of the principles of their party as embodied in their election manifesto and make them understand not only their party principles but also the principles for which the various parties stand for. Therefore, it is desirable that and up to you to take a small constituency so that you can approach as large a number of voters as possible and bring them round to your view; by that means you are educating your masters as it is called; they are the masters, the ultimate arbiters to decide who should be in the Parliament to voice their feelings. For these purposes, it is necessary that it should be of a manageable size where you could have direct contact with a large section of the people. The point to be remembered is that in a multi-member constituency, wherever there are two or three members to be returned, it is nobody's constituency and each man thinks that he is not the only member and there are the other two who are representing that constituency and he does not feel that it is his responsibility to look after the interests of that constituency. For example, Sir, we have certain multi-member constituencies in certain districts like Visakhapatnam, Tanjore and East Godavari. If a single member is returned by a limited constituency, he can speak on behalf of his own electors as the sole representative of the people; but where there are two or three members, it becomes nobody's responsibility and each does not feel that he is the representative of all people and he can speak for them, when the representation is shared by two or three other members. It is better and it is up to you to have the single-member constituency so that we can have contact between the elected and the electors, between the representative and the people who sent him to the Legislature. In England and other countries, we always see the members going into their constituencies immediately after the Budget session in order to explain to the voters the party principles; if they belong to the Ministerialist party, they explain to the people what they have achieved with reference to

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what they said they would and if they belong to the Opposition, they try to belittle what has been done by the Government and between them they educate the people for the next opportunity, that is, when they will be having the elections. It has been discussed which system will conduce to the formation of party system. For democracy to be successful, you must have developed well-organized parties so that they will go before the country and tell the people their own views, the pros and cons of things on the tapis in the Assembly; the party system, therefore, becomes a necessary adjunct of democracy. Some of our friends are deploring the lack of a well-organized party system in the country; it is all a one party show and things are not done in a democratic manner and there is not that congenial atmosphere for a second or third party functioning effectively both within the House and in the country. Therefore, Sir, we feel the need for a party system and looked at from that point of view, the party system can well be developed in the single-member constituency and not under the multi-member constituency under which system you will not be able to say how the people have expressed their view, whether they have voted for the abolition of the zamindaris or they want the zamindari system to continue. If you take the case of Krishna and have two representatives here, Mirzapur Raja and Kaleswara Rao, you will be at a loss to know if the people have voted for Prohibition or against it, or the people wanted the zamindari system to be continued or they wanted it to be abolished; you will have no idea of what the considered view of the people of that district is regarding so many other issues which have been placed before them and you will not be able to know finally how the people have voted. In order to develop well-established party system, it is right that we should have the single-member constituency so that we may know if the people have voted for the Government or not and whether the people have approved generally the broad principles that had been placed before them. The party system is really a consummation much to be desired; we are yet in the infancy of the party system. We have immediately after the attainment of Independence only one party managing the whole show just now and I think that in the years to come when true democracy begins to function, there is scope for other parties to spring up and to get represented in the House. Being a thing which must be desired, we must afford all opportunities which will be conducive to the formation of the party system. Advocates of multi-member constituencies believe that in plural-member constituencies, minorities, whether they are religious or social or political minorities, will be able to get better chance of representation. The Hammond Committee took much pains to examine the conditions in Madras and they said that under a system of single-member constituencies, that community which is preponderant in the electoral roll will get a chance of being elected every time and other minorities, social, religious or political minorities will never get a chance. They have discussed that in a constituency preponderantly Kamma, only a Kamma will be returned and likewise in a constituency preponderantly Reddi,

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only a Reddi will be returned and when it came to their recommendation, they said that in their best judgment, plural-member constituency will be best suited for the conditions in Madras but with the single non-transferable vote. Of course it was reversed by a later decision of the House. Naturally in a multi-member constituency, the question has been discussed how the voting will be done; whether we are going to have distributive voting or the cumulative voting or the single non-transferable system of voting or the transferable vote or the limited vote. There are ever so many ways which strive to bring in minority representatives into the Legislatures. That has been engaging the attention of many of our reformers and they have bestowed much care and thought to the question as will be seen from the enormous number of publications which canvass support for particular systems of voting. There are people who think that the system of proportional representation is the panacea for all the ills and maladies of political and other minorities and that alone will assure representation for the minorities and that will give great satisfaction to the minorities. You cannot leave the minorities behind by some system of election. If you decide upon the plural-member constituency, we have to examine whether we shall have the cumulative or the distributive system of voting. We have had here again three systems of voting from 1924 to 1937; we had the distributive system of voting under which the voter had as many votes as there were vacancies but he could not bunch all the votes if he did not vote to the extent that he had votes, the other votes will have to be allowed to rust. After 1937, the system of cumulative voting came into existence especially in plural-member constituencies where seats are reserved for Harijans, like the general constituency in Rajahmundry or the Vedaranyam constituency where the voter could bunch the votes for a particular candidate or he can distribute the votes as they liked. Under that system many thought that representation would be given to minorities. Experience of the working of the single non-transferable vote in the Harijan panel elections, where, as I said, there were two seats to be filled, every Harijan voter had only one vote. In a resolution moved in 1939, Mr. M. C. Rajah pointed out the defects of the pernicious system of bunching votes and how it affected Harijan candidates in the general elections of 1937; there was a great disparity between the votes cast by the general constituency and the Scheduled Classes. While the general candidates had as many as 30,000 votes, the Harijans except in the Vedaranyam constituency got only 1,500 or 1,800. On a motion of Mr. Rajah the House unanimously decided to do away with this system of cumulative voting and Parliament again accepted it and by 1946 elections, we did not have this cumulative system of voting but only the distributive voting came into being.

" But, Sir, somehow our Madras Province has not taken to cumulative voting. But Bombay has always advocated this cumulative system of voting; where, for their municipal elections, Council elections and Assembly elections, they always had this cumulative

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system of voting. Some time ago, in Bombay Corporation, they had such a huge system of multiple constituencies that the whole city was divided into six wards, and in some wards there were as many as twelve candidates. Since they had the cumulative system of voting, under it, a voter could cast all his twelve votes to a single candidate, and in that way, a single candidate could get 12 votes straightaway. That was the system which prevailed in Bombay some time ago; and even now, they have got multiple constituencies in Corporation elections in Bombay. I think they have this cumulative voting also. But in Madras we had it once and we have got rid of it subsequently. (Interruption by Sri A. Govindacharyulu.) In 1937 we had it for the Council; we had it for the Assembly; but in 1939 Mr. M. C. Rajah moved a resolution to cancel it; and it was carried; and thereafter Madras does not have cumulative voting at all. I think even for the two seats which had to be filled from East Godavari, this system of cumulative voting was not adopted in 1937. (An hon. Member: 'It was an uncontested election.') Anyway, Sir, we have got rid of it, and I hope it will not come back to our Province, as we have not taken to it kindly.

"Again, Sir, regarding multiple constituencies, while it gives some representation to social minorities or religious minorities, the other side of the picture has also to be represented. Because I have a feeling, multiple constituencies will again perpetuate the caste system. If there are two seats to be filled either on distributive vote or cumulative vote, then the tendency for the candidates will be to say, 'I am a minority man, I belong to your community or I belong to your religion, therefore you please vote for me.' Even if it is a distributive voting system, even that will perpetuate the caste system, which we want to get rid of. Further our Constitution contemplates in terms of individuals and citizens and not in terms of communities, religions and special interests, etc. Therefore, Sir, I have my own feeling that if we once accept multiple constituencies we would again bring back the caste system and the religious feeling through the back door, and that may prove baneful to our new Constitution. Therefore, I am of opinion, and that is also the view of Government, that we should adopt only single-member constituencies.

"Then, Sir, my second point is, for the Legislative Council, under the Act itself, every seat should be filled only by proportional representation with single transferable vote. That postulates, Sir, a multiple constituency; and, therefore, for the Legislative Council, that is the Upper House, it is indirect election from the Assembly; because, Sir, you may remember that we will have 72 members here; of whom 24 will be returned from the Assembly, 24 from the local boards, six will be returned from graduates, six from teachers and twelve by nomination as experts on scientific research, etc. In all these cases, they are all to be returned through proportional representation with transferable vote. That means we may have multiple constituencies of two or three or four members; and whether it is in the graduate's election or teacher's election, we

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must have a constituency with not less than two seats, and to ensure a good system of return we should adopt the single transferable vote.

“ Then with regard to the conduct of elections, my resolution says, we may adopt the coloured box system. In England and other countries, the system of marking on the ballot paper by x mark is in practice. But with the large mass of illiterate voters on our rolls, I do not think that will work satisfactorily here. We tried, therefore, the coloured box system in the elections in 1936 and 1946. But there is also the token system or the symbol system, which again was adopted in Bombay in connexion with the corporation elections. There, the candidate is represented by a symbol, for example, a tree or a cow on the ballot paper. There, the voter is asked to go and mark for the candidate having the cow or tree symbol. In that system also, the voter has to go to the polling booth with pencil in hand and mark for the candidate to whom he wants to cast his vote. That is all difficult for the illiterate voter. So, the symbol system may not suit our illiterate voters. Therefore the coloured box system, which has been tried in our State twice before, and which has proved a success, may as well be continued here.

“ Then, Sir, there may be some constituencies where there may be a general seat as well as a reserved seat to be filled in. In the elections in 1937 and 1946, there were such seats to be filled. It may be, for the general seat the contest may be between a caste-Hindu and a Harijan; and it may happen both the seats may be secured by Harijans and the caste-Hindu may be defeated. There again there is some difficulty experienced in actual working. Where the contesting candidates are more than two, a large number of boxes may be required to be placed in the polling booths. Suppose there are two candidates each for the general and reserved seats; then, four boxes should have to be placed in the polling booth, each having a particular colour. That will surely confuse the voters at the time of voting; and in the case of colour blind voters the difficulty will be greater to vote. And the more the number of candidates contesting for each seat, the more the number of boxes will have to be placed with distinct colours. All this would cause confusion to the voters. Therefore for the first time we are introducing a little change in the election rules. Even if a seat is reserved for a Harijan or backward community, the returning officer will be different. I shall make myself more clear. Suppose there are two candidates contesting for a Harijan seat. The voter goes into the booth; there he will be given one ballot paper instead of two (one for general and the other for reserved seat), and he will be asked to exercise his vote between the two candidates. Having done so, he will go into another booth (and this is for the general seat) and he will be given a ballot paper and asked to exercise his vote. Otherwise, if all the boxes are placed in the same polling booth the voter would become confused and he will put all his votes in one box, which would then become a cumulative vote or an invalid vote and the election officer would be put to the task of deciding several such cases. But if a separate booth is set up for each seat there is no

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such trouble; and further there is very little difficulty in counting of votes in such a case. So we have divided the polling booth into two.

Lastly, Sir, we have said that watchers need not be appointed. Of course, whenever there is the coloured box system adopted, it must be ensured that the voter who is given the ballot paper deposits his paper in one of the boxes placed in the booth. Sometimes, even according to Hammond Committee in municipal elections, it happens that some voters do not deposit the ballot paper in the ballot box but carry it away with them and hand it over to one of the candidates, who collects all such papers, and towards the close of the day one of his men proceeds to vote and deposits all the papers in that candidate's box. To prevent that we had the watchers in the 1937 elections and we tried them in the 1947 elections also, and I do not think there were many complaints of the ballot papers being taken away and deposited afterwards. But the whole system requires a huge army of officers, namely, election officers and polling booth officers. If only one calculates the number of officers required one is simply staggered at the huge figure; for we want such officers for the elections to the Legislative Assembly, Council, the city council and local boards and municipalities. To add to this, there are the watchers, who will be asked to watch from behind the slot. As I said before, we tried them in the 1947 elections, and from our experience we have to say, their presence there had an adverse effect on the psychology of the voter, wavering between the yellow box, red box and blue box, as he was always being watched by the watcher through the slot. Sometimes, voters are baffled by the watcher's presence behind the screen. Sometimes the watcher has also given information, how people have voted, whether in the yellow box or red box or blue box, more so, when the voters in a particular booth happened to be very few. This violates against the principle of secrecy of vote. Therefore we have thought fit to dispense with watchers. Sir, these are the main principles on which we want the opinion of the House.

"Sir, in conclusion, I am only hoping that we will have a good electoral system and thereby the opinion of the people will be truly represented in the Parliament or the legislature. For the legislature must be a mirror of popular opinion and not run counter to the opinion of the people. That must be guaranteed, for otherwise the people will get frustrated. I am particularly hoping because we have done away with reservation of seats for Muslims and Christians—because our Constitution does not think in terms of Muslims and Christians—I am anxious that no minority community or religious community should feel that their grievances are not even voiced by any representative in the legislature or that they have no chance of getting into Parliament, because they are a perpetual minority. I think it is the duty of all parties, whether Congress or any other, to see that they choose as their representatives persons not because they are Muslims or Christians but judge them by the service and sacrifices they have rendered to their community or to the country in securing freedom. Otherwise some

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of the minorities might feel a perpetual grouse or grievance which will not be very conducive to the proper working of democracy. Everybody must be satisfied. Everybody must feel that the Legislature and the Government that are functioning are his, even though he may belong to a political minority which is not in office. 3-30 p.m.

“ While speaking in the debate on the Governor's Address, my hon. Friend, the Leader of the Opposition wanted that there should be fair elections. I do not know why people are talking about fair elections. Because somebody said something in Bombay, people are saying that the Government must ensure fair elections. The Bombay Convention went to the extent of saying that the Ministries, both in the Centre and the States, should resign before elections so that the Governor can have absolute powers and administer the country through civilians. I do not think the opposition parties in any other country have made such a suggestion. They have not shown that amount of distrust towards the Government. The Leader of the Opposition is always the potential Prime Minister of the State. If he puts forward popular policies, he is voted to power by the people. That is why he is always in the position of a potential Prime Minister of the State. He need not be nervous that the Government will be unfair to the opponents or that they will put obstacles in the way of fair elections. I do not think it has ever happened. I do not think the Congress ever complained that the Justice Party was unfair in elections when it was in office. Many members of the Congress Party were returned in the elections conducted during the Justice Party's regime. About twenty by-elections have taken place since 1946 and I do not think the Congress ever interfered with the polling arrangements or put impediments in the way of opposition candidates. In the municipal and district board elections, there were instances of a Congress candidate being defeated by a Communist or Socialist. I do not think in our State at least there has ever been any complaint that the Government or Government officers put any obstacles in the way of candidates opposing the party in power if they carried on propaganda in a legitimate manner. There is no use of saying that the Government should ensure fair elections. Fair elections are always assured and there is no use in reiterating this basic principle. Equal opportunities will be given to all candidates and nobody need be under any handicap. I think I have given a fairly elaborate historical retrospect of the electoral system.

“ I am glad our Election Commissioner reminds me to speak about what has actually been done. So far I spoke about general principles. Now I will explain what has actually been done. This State will have 375 members in the Legislative Assembly and 75 members in the House of the People. It postulates that there will be one representative for every 145,000 people in the Assembly and 725,000 people in the House of the People. Five State Assembly constituencies go to make one House of People Constituency. Here I must explain how the population has been calculated. It is not based on the 1941 census; it is not based on what it is going to be in the 1951 census. The population is calculated in a rough and ready manner on a nation-wide scale after various calculations

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and approved by the President. They have taken the number of voters enumerated in 1948 and multiplied that figure by 2.09 and the product is supposed to be the population for this purpose. The population of some of the States like the Punjab and Bengal and some of the cities like Delhi and Calcutta has undergone a violent change. It does not go by the gradual increase of one per cent for every year. Originally we calculated on the basis that the increase in population would be one per cent for every year and the increase in population would be ten per cent between one census and the next. The population of Calcutta would have trebled or quadrupled and the population of Delhi will perhaps be five or six times of what it used to be. In the Punjab, especially in places like Amritsar and Ambala, a large number of people have migrated from and immigrated into Pakistan. Thus there have been violent changes in population. That is why they have adopted the method of taking the number of voters in a particular place and multiplying it by 2.09.

“ Sixty-one seats for Scheduled Castes and 12 seats for Scheduled Tribes have been reserved in the Madras Assembly and 5 seats for Scheduled Castes and 1 seat for the Scheduled Tribes have been reserved in the House of the People. Wherever there is a seat for the Scheduled Castes and a seat for the Scheduled Tribes, the two single-member constituencies will be clubbed together and the voters will be asked to elect one member for the general seat and one member for the reserved seat. That means the number of people in such a constituency will be not 145,000 but 290,000. The same position applies to the House of the People also. Wherever there is a seat reserved for the Scheduled Castes and a seat reserved for the Scheduled Tribes, the two constituencies will be clubbed together. The population of such a constituency will be not 725,000 but 1,450,000. The voters will be asked to elect one member for the general seat and one member for the reserved seat. We have proceeded on the principle of allotting the Harijan seats in those taluks where there is the largest Harijan population. In the Narasaraopet taluk of the West Godavari district, there is a large Harijan population and one seat has been allotted for the area. The second seat has been allotted for the taluks of Kovur and Polavaram where also there is a large Harijan population. That is the principle adopted in reserving seats for Harijans.

“ We could not keep the integrity of a taluk or even a Revenue division, because we have to satisfy the population strength of 145,000. But we have kept the district as a whole; we have not impaired the integrity of a district. The population strength need not be precisely 145,000. It may be 15,000 this side or that side. It does not matter if it is 130,000 or 160,000. We tried to keep the revenue firka at least intact. But where the revenue firka was large, we had to split it. Only in stray cases we split up the revenue firka.

“ These are the main principles. As I said in the beginning our proposals have been either already despatched to the Election Commissioner or are being despatched. He will publish the proposals and invite opinions. We are only acting as his agents. It is for

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him to accept or reject the proposals. We have formulated our proposals on the basis of the single-member constituencies. He may say that there must be plural-member constituencies and call for alternative proposals. If time permits—I am not quite sure—we may have an opportunity of considering the actual delimitation proposals. Just now we may confine ourselves to the resolution. I invite the opinion of hon. Members on the five points adumbrated in it."

MR. CHAIRMAN :—" The motion is—

' That this Council requests the Government to convey to the Government of India the following as the recommendations of this Council in regard to the delimitation of the constituencies of, and the conduct of elections to, (a) the Legislature of this State; and (b) the House of the People :

I. Delimitation of Constituencies.

(1) *Legislative Assembly of this State and the House of the People.*—Seats for Scheduled Castes and Scheduled Tribes should be reserved in plural-member constituencies with two seats each, one general and the other reserved for Scheduled Castes or Scheduled Tribes. All other constituencies should be single-member constituencies.

(2) *Legislative Council of this State.*—There should be not less than two seats in each constituency, with proportional representation with transferable vote.

II. Conduct of Elections.

(1) The coloured box system should be adopted.

(2) The boxes for the General and Reserved seats in plural-member constituencies should be kept in separate compartments in each polling booth.

(3) Watchers need not be appointed."

* SRI A. GOVINDACHARYULU :—" May I take it, Sir, that the proposals of the Provincial Election Commissioner in regard to the delimitation of constituencies in this Province, which will be sent by him to Central Government in due course will be placed before the legislature for discussion? "

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MR. CHAIRMAN :—" I think, the Hon. Minister has already told the House that the proposal as published by the Central Election Commissioner will be made available for discussion in this legislature if time permits. This Government are not going to do anything in the matter. It is the Election Commissioner in Delhi who is in charge of delimitation of constituencies in the various provinces who will formulate his proposals and send them to this Government and then if time permits they will be brought before this House for discussion. That is what I understand the Hon. Minister has said."

* SRI A. GOVINDACHARYULU :—" What I want to know is, whether the Madras Government would before simply giving

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their seal of approval to any proposals formulated by the Provincial Election Commissioner, bring them to the notice of the legislature. I want to know whether the legislature will be given an opportunity to have its say on those proposals."

THE HON. SRI B. GOPALA REDDI :—" Sir, as I have already said, the responsibility for the delimitation of constituencies entirely rests with the Election Commissioner. Under the Act, he can himself frame his proposals in consultation with the President and the State Governments need not be consulted at all. We simply want to assist the Election Commissioner by our suggestions in formulating his proposals. We have sent our suggestions and it is up to him to do whatever he chooses. But according to press reports, I find that he is releasing these proposals and inviting public opinion on the same. I think, a small committee consisting of seven members has been appointed by the Speaker of the Parliament of the Indian Union to scrutinize these proposals. That Committee may make their own suggestions in the light of public opinion and criticisms received by them. The whole thing will be placed before the President, in due course and I think we may do well to wait till the Election Commissioner's actual delimitation proposals are received by this Government. If time permits, I have no doubt, the House will be given another opportunity to discuss those proposals."

* SRI A. GOVINDACHARYULU :—" Cannot this Government place their recommendations before this House for discussion before they are submitted to the Central Election Commissioner? Should not this House be given an opportunity to discuss those proposals? "

MR. CHAIRMAN :—" What the Hon. Member wants apparently is that before the Madras Government send up their proposals to the Election Commissioner, the legislature should be given an opportunity to offer its opinion on those proposals."

THE HON. SRI B. GOPALA REDDI :—" I regret, Sir, it cannot be done. It is not as if we have been asked to formulate proposals and send them to the Election Commissioner for approval. The Election Commissioner has been giving us directives and consulting us on these matters from time to time. We too have been making our proposals and suggestions on his directions and in the light of these proposals and counter-proposals, something in the nature of a *via media* has to be settled. We are simply acting as their agents in this matter and it is not certain that our suggestions or proposals would be completely accepted by him."

JANAB K. T. M. AHAMED IBRAHIM :—" Are the Madras Government only the agents of the Central Government? Are we not an autonomous State? "

THE HON. SRI B. GOPALA REDDI :—" Sir, we have no *locus standi* in these matters. We have been simply asked by the Government of India to assist the Election Commissioner in this matter and we are helping him accordingly."

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* SRI A. GOVINDACHARYULU :—“ Could we not at least know when the proposals will be published by the Election Commissioner? And could not this Government inform the House what their recommendations are on those proposals? ”

THE HON. SRI B. GOPALA REDDI :—“ I do not think, Sir, it would serve any useful purpose to place our recommendations before the House, because we do not know whether they would be accepted by him or not. As I said, after he had finalised these proposals, he would naturally publish them and then this House will be given an opportunity to discuss those actual delimitation proposals if time permits. But to-day we are concerned only with the broad general principles as to what system of elections would be conducive to the best interests of this Province. Perhaps the Election Commissioner might revise his opinion in the light of our present discussions in this House. It is now too early to say anything in the matter, because the proposals have not taken any definite shape yet.”

SRI R. SURYANARAYANA RAO :—“ May I take it, Sir, that what the Hon. Finance Minister has stated just now in his speech are the views of the Madras Government and not his personal views? ”

THE HON. SRI B. GOPALA REDDI :—“ Yes, Sir. What I have stated just now only represents the views of the Madras Government. In fact, the resolution just now moved by me is sponsored as a Government Resolution and the views I have stated are my views as a Minister and I have not expressed them in my personal or individual capacity.”

* SRI A. GOVINDACHARYULU :—“ I suggest, Sir, that it is most important and necessary that the detailed proposals should be placed by the Government before the legislature for discussion. Otherwise how could anybody know our views on these proposals? ”

MR. CHAIRMAN :—“ Now let us come to the debate. Let me first call Mr. K. T. M. Ahmed Ibrahim to speak. Let him move his amendment and speak both on the Resolution before the House as well as on his amendment.”

JANAB K. T. M. AHAMED IBRAHIM :—“ Mr. Chairman, Sir, I move the amendment standing in my name, namely :—

“ In clause (1) of paragraph 1 of the resolution under “ Delimitation of constituencies ”, for the words “ single-member constituencies ”, substitute the words “ plural-member constituencies with at least five members each with cumulative voting ”.”

“ Sir, I am glad that I am encouraged by the speech of the Hon. Finance Minister who moved this resolution and dealt with the subject in a very frank and open manner. Sir, he conceded that the last word has not been said on the subject, that democracy in our country is in its infancy, and that we have to devise some means of giving effective representation for all the interests in the

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country. But, as a matter of fact, he has not devised any effective method for minority representation in the legislatures, though he has expressed the pious wish that the legislatures of the country must be a mirror, reflecting public opinion as otherwise certain sections of the population would get frustrated. He also added that in view of the fact that separate electorates had been abolished, he was anxious that no minorities should feel that they would have no chance of getting into Parliament. Surely, Sir, this is a laudable sentiment and a pious wish and I welcome it. He also conceded that minorities in this country are perpetual minorities and therefore he was anxious that they should not have a feeling of frustration that they have not been properly represented in the future Parliament. But unfortunately he has simply set his seal of approval on the present method of representation and he has not taken the trouble of finding out some other suitable method of giving effective representation to the various minority interests in the country. Sir, it is too late in the day to say that there are no separate interests in the country. There are various minorities now in the country whose interest would seriously suffer if they are not given separate representation. Now, Sir, for a democracy to succeed, the legislatures of the land should reflect faithfully the various shades of opinion and the various interests involved. As the Hon. Mr. Gopala Reddi himself said, they should not be a one-man's show and dominated by only one political party. The delimitation of constituencies is the very first and fundamental step in the establishment of democracy in the country. The constituencies should be delimited in such a manner as to return candidates representative of the various interests involved and no frustration should come upon any particular interest on account of non-representation. That is the stand-point from which this resolution should be examined.

“ Now, Sir, I shall just quote one or two sentences from the two reports referred to by the Hon. Mr. Gopala Reddi. The Lothian Committee have dealt exhaustively with this subject in their report, and on page 145 of their report, they say :

‘ The history of democracy is filled with controversies over the method of representation. Adult franchise can secure equality in casting votes, but whether these votes are effective in securing representation in the legislature depends upon the system of representation employed.’

Therefore, Sir, even though we may be given adult franchise, it will be effective if proper representation is secured in the legislatures by a proper system of delimitation of constituencies. The Committee go on to say—

‘ The original practice of democracy was to provide for majority rule on the basis of the votes of the whole population voting as a single constituency, or in territorial constituencies containing as far as possible, an equal number of voters. It was not long however before minorities, religious, political, racial, or economic, claimed that the system of majority rule was unduly crude in its operation, and was unfair to important sections of the community having opinions or interests of their own, which, under the single-member constituency system, had no chance of securing direct representation in the legislature.’

Sir, I am glad to say that my Hon. Friend Mr. Gopala Reddi has also expressed the same idea at the end of his speech. He said that there should be no one-party show and that there must

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be proper representation of the various interests in the country and also expressed the wish that the Congress and the other parties functioning in the country should see that minority parties also get their proper representation in the legislatures. I must submit, Sir, that this mere wish would not satisfy the various minority interests. Minorities should not be made to depend on the whims and fancies and the caprices of the majority parties or the party in power which conduct the elections. The minorities must be secure of their representation whatever parties may run the show. Their representation should be secured to them as a matter of right. Otherwise, the minority interests would surely suffer, and it is quite possible, as has been mentioned by the Premier of the Uttar Pradesh Government that the minorities might not even be able to get an adequate number of members from among themselves for standing as candidates to the legislature. At present one or two party-leaders here and there might take some interest in the minorities and support their candidates in the elections. But will it be possible always and in all places? As my Hon. Friend, Mr. Gopala Reddi, himself said, there are perennial minorities in our province and when there are perennial minorities, there must be a perennial system of representation for them. A perennial minority should not depend on the whims and fancies of particular parties for their representation in the legislature. But, Sir, I am sorry to find that while he expressed such laudable sentiments and fine ideas, he has not himself given practical effect to them by devising a system of representation which is best suited for the minorities in this State. He has simply set his seal of approval to the existing system which does not guarantee any protection to the minorities from the unrestricted and tyrannical use of the democratic principle expressing itself by the majority votes.

" The main point he discussed was about plural-member consti- 4 p.m.
tuencies, and I can say at once that the Committee set up by the legislature of the Uttar Pradesh has conceded in principle that for Muslims and other minorities, there should be double-member constituencies. Mr. Pant has expressed clearly that if some chance is not given to the Muslims through these double-member constituencies there is no possibility of Muslims being elected to the legislatures. I am glad that this comes from one of the foremost Congress workers, and I do not know why our Government which is also a Congress Government have not given thought to this matter, but thought otherwise and insist on single-member constituencies.

" The Hon. Mr. Gopala Reddi stated the various points which he felt to be against the introduction of multi-member constituencies. First of all he stated that if there were multi-member constituencies we could not ascertain the wishes or the verdict of the people on any particular issue. I cannot understand that argument at all. Does he mean that there can be only one opinion in any constituency? Can there not be various shades of opinion in any constituency? The best way of ascertaining the opinion of any section of the people is to have multi-member constituencies so that we may understand what proportion of the people are holding a particular

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opinion and what proportion are holding a different opinion. Suppose there is a multi-member constituency containing five members. If three members are elected representing a particular political party and two members are elected representing another political party, that will show to a great extent what the state of public opinion is in that particular constituency. But if there is only one member to be elected from that constituency, we will have to conclude that that constituency is of one opinion. Therefore, the best way of ascertaining the verdict . . . (Interruption.) That holds good with regard to multi-member constituencies also. The better method of ascertaining public opinion is through multi-member constituencies. The Hon. Gopala Reddi referred to Dr. C. R. Reddi and Munuswami Naidu elected from the same constituency of Chittoor. One-half of Chittoor was for Congress and the other half was non-Congress. That is the way to ascertain real public opinion, and not by having single-member constituencies, and not by saying that Mussolini avoided party system. That will lead us only to Nazism.

"The next point that he said against multi-member constituencies was that it was the simplest system, and our electors being illiterates, they could not be expected to understand the full implications of multi-member constituencies, and the voters might not know whether this or that vote would be proper. Since it is the simplest system and since the voters are illiterates, I am anxious that they should not be swayed by slogans and sentiments, and by methods of corruption. If the electorate is small, there is the probability also of the candidates approaching them individually and having things done by means fair or foul. If the electorate is large, then it will be impossible for the candidates to approach the electors. Therefore they will be able to cast their votes as they liked. Otherwise there is the possibility of simply being carried away by slogans, sentiments, personalities, etc. If there is plural-member constituency, it will be of course difficult. This question of corruption cannot prevail there. The only point is that candidates must educate the electorate in the proper manner. There can be no contact. The same thing was mentioned by both Hammond and Lothian in their reports. They point out the defects of the single-member constituencies, and they are for multi-member constituencies. They have given various reasons. The Hon. Minister stated that if there were multi-member constituencies, then nobody would be responsible to the electorate, and it became a no-man's constituency. The position is quite the reverse. All the members will be jointly and collectively responsible to the electorate, and further, there will be the spirit of competition among the various candidates to do the maximum good to the electorate. That spirit of competition will be eliminated if it were only a single-member constituency, and after election, the candidate may simply ignore the electorate. But in the matter of multi-member constituencies, there will be competition. (Interruption.) In multi-member constituencies, each one of the candidates will try and see that he does good to the electorate much more than the other candidate. That spirit is ruled out in the case of single-member constituencies."

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MR. CHAIRMAN :—" Five members from a constituency will prove the saying that too many cooks spoil the broth."

JANAB K. T. M. AHAMED IBRAHIM :—" It is so much the better, because all the electors can go to them and see that the remedy is effected. Since our land is a democratic republic, and is in its infant stage, we must take all steps to develop the party system. It is for that system that proper methods should be devised for the representation of minorities in the legislatures. If it is run only on single-member constituencies, there is no doubt that the majority will dominate the elections, and the minorities may not get adequate representation in the legislatures. In this matter I am fortified by the opinion of no less a person than Pandit Pant. It is for that purpose we must see that the perpetual minorities are given proper representation not through the whims and fancies of any particular party or through small mercies shown by any particular party, but as a matter of right they must get these things. If the constituencies are only single-member constituencies, they will by their very nature be small, with the result that local prejudices and local factions will play a great part in the election of representatives. But if the electorate is wider as in the case of plural-member constituencies these local prejudices may not have such a dominating voice, and the outlook will be less narrow. There will be broader choice and the electors will have the right to vote for the candidates of their own choice.

" The Hon. Mr. Gopala Reddi has been again and again repeating that the opinion of the Lothian Committee and the opinion of the Hammond Committee have been set aside by the vote of the Legislative Council twice. Well, Sir, in that connexion I wish to draw the attention of the House to the important considerations on which these two verdicts of the Legislature were given. At that time, the House had to deal with the representation of the majority community alone. The minorities—Muslims and Christians—had their own separate electorates. Therefore, the minorities question was not before them then. They were only concerned with the representation of the majority community. In such cases should there be multi-member constituencies? They decided that no multi-member constituencies were necessary, and they did not want to perpetuate caste and sub-caste system. Now the whole basis is gone. Muslims and Christians are in the State. (Interruption by the Hon. Sri B. Gopala Reddi.) Still you are Mr. Gopala Reddi and I am Ahmed Ibrahim. We have to face realities. There is no use of ignoring realities. If you ignore realities' . . . "

MR. CHAIRMAN :—" Both of you are Indians!"

JANAB K. T. M. AHAMED IBRAHIM :—" We are Indians, but still the voters will know us from our names. The system of majority rule was unduly crude in its operation. The Lothian Committee says that there will be no chance of getting representation for these minorities in the legislature. If the minorities are ignored, in the words of the Hon. Mr. Gopala Reddi himself, there will be frustration among the minorities. Is he prepared to face this

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frustration? When once the question of plural-member constituencies is granted, cumulative voting goes with it. I shall here read certain portions from the reports of these two committees. Both these committees feel that in order to ensure representation to minorities there must be plural-member constituencies with cumulative voting. (Interruption.) England is different from India. In England there are no perpetual minorities as in India. They are more educated. We have illiterate voters. We are swayed by slogans and sentiments. Then again, what is the percentage of literacy there? There each elector understands the foreign policy of the Government." (Interruption by the Hon. Sri K. Madhava Menon.)

MR. CHAIRMAN :—" Let there be no conversation."

THE HON. SRI K. MADHAVA MENON :—" Interjections are allowed even in Parliament, Sir."

MR. CHAIRMAN :—" I only said ' conversation '."

JANAB K. T. M. AHAMED IBRAHIM :—" With regard to cumulative voting, the Lothian Committee says—

' 369. In multi-member constituencies we recommend the use of the cumulative vote An alternative method in multi-member constituencies is to use the restrictive vote, a system under which, the voter has the right to use one vote only. We prefer however the wider opportunities given by the method of cumulative vote. The elector can exercise his discretion how he will distribute his votes and is given the opportunity of exercising a broader choice and not reserving his attentions solely to those of his caste or creed, if he so desires. It therefore gives a less narrow outlook to the voter and renders the divisions in the community less stereotyped.'

" The Lothian Committee's Report is the reverse of what the Hon. Mr. Gopala Reddi says. The Lothian Committee says—

' It gives him no less opportunity than the restrictive method to concentrate his votes upon the candidate of his choice. It is not so simple as the other method though the results may be said more exactly to represent the wishes of the electorate.'

4-15 p.m. " The Hammond Committee Report says on page 13 as follows :—

' The two-party system is not yet established in this country and voting takes place largely on personal or communal considerations. Small sections of the population can, therefore, have practically no chance of returning a representative of their choice unless more than one seat is allotted to a constituency. Even large and important sections of the population for whom special representation has not been provided, might go unrepresented if a district is subdivided into several small electoral areas and their strength is distributed. Also, with single-member constituencies, candidates with a merely parochial outlook and of relatively inferior type are likely to be returned and though it is possible to some extent to provide against this danger by dispensing with the requirement that a candidate should actually reside within his constituency, it is very doubtful whether, in actual practice, electors would generally favour outsiders as their representatives.'

So, Sir, it is in the multi-member constituencies that wider outlook, national outlook, is guaranteed better than in single-member constituencies. The Hammond Committee are definitely of opinion that multi-member constituencies will give effective proportional

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representation to the minorities. Otherwise, they may go unrepresented and the evils of democracy will go unmitigated. They will have to bear the tyranny of the majority and be at their tender mercies.

“ At the time when the Legislature of this State decided against this report, the Muslims and the Christians had separate electorates. We dealt with only the majority communities. Therefore, it should not stand in the way of considering afresh the necessity of introducing plural-member constituencies with cumulative voting.

“ With regard to the voters' list, I do know that it is being prepared. I have been receiving complaints from several areas that whole blocks of voters have been omitted. The enumerators did not go to those areas at all.”

THE HON. SRI B. GOPALA REDDI :—“ The people could have gone and given their names and they would have been included.”

JANAB K. T. M. AHAMED IBRAHIM :—“ When the people in the locality approached them, they said that they might wait till the preliminary rolls were published and then they could give their names.

“ It is good that the system of appointing watchers is abolished, because it is interfering with the secrecy of the ballot box and we have been feeling that it is a very great evil in elections.

“ In view of the fact that the Mover of the Resolution himself has expressed his anxiety that all minorities should get proper representation in the Legislatures of the country and there should be no frustration, I appeal to him to consider the points I have mentioned, with an open mind and see whether, in the interests of proper development of party system and of creating contentment and satisfaction among the various minorities in the land, it is not necessary to accept my amendment. Let the proposal be given a chance. In the absence of separate electorates and reservation of seats, this is the only method by which the minorities can get representation in the Legislatures. It is, of course, possible that the majority party may put some men of the minority community into the Legislature. But no such imagination can be made. I want that the wishes of the minorities must be properly expressed in the Legislatures, so that the majority community and also the Government may know the actual grievances, needs and requirements of the minorities and may try to mitigate their troubles. If the minorities have not got their own representatives, it is quite possible that the Government may not be able to understand their viewpoints. It is only for that purpose that I want proportional representation to the minorities.

“ I see the Government have sent up their proposals to the chief Election Commissioner before placing them before this House and getting the opinion of this House. Therefore, I request that the proceedings of this House may be communicated to him, so that he may understand the views of the Members of this House.”

JANAB K. UPPI :—“ I second the amendment, Sir.”

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JANAB ABDUL LATIF FAROOKHI :—“ Mr. Chairman, Sir, I am very thankful to the Hon. the Finance Minister for his very good and informing speech. But this is a new experience for us. Therefore, it will take some time for us to digest these principles. In spite of the careful manner in which the Finance Minister has put forward his views, there is one thing which agitates the minds of the people and that is that this Government do not act according to the principles of democracy. The hon. Gentleman, Mr. Govindacharyulu, was right when he suggested that this House ought to have been taken into confidence before proposals were formulated on the question of delimitation of constituencies. The Hon. the Finance Minister said that they did not want to give publicity. If we look up Parliamentary procedure, we know that in certain cases at certain times even the House of Commons goes into secret sessions. Similarly, both the Houses of this Legislature could have gone into secret session and proposals might have been placed before them. If the Government are not going to take the representatives of the people into confidence and if they place their own proposals before the chief Election Commissioner or before the President of the Republic, I would say that it is a negation of democracy. We are not concerned with the Election Commissioner, however great his powers might be. It is this Government that send the proposals. This Government are responsible to this Legislature and it is this Legislature that wants this Government to place their proposals before it. It is not our concern whether the proposals of this House are accepted by the Election Commissioner or whether they are finally accepted by the President of the Republic. Our concern is that this Government have failed in their duty in not having placed their proposals before this House. Therefore, it is a matter for regret that this Government who call themselves a Popular Government should have gone against the very principles of democracy which they advocate. I think it is not even now too late to remedy it. The Finance Minister is not bound by the verdict of the Election Commissioner. He is not the head clerk of the Election Commissioner. He is an independent Minister responsible to this Legislature. (Interruption.) He may feel that he is not independent. But I do not share that pessimism. It is his duty to assert his right. Whatever the Election Commissioner, or the President, for whom we have great respect, may say, have we not got the right to express our views? We do not say that those views must be accepted. What we say is that the Government must have taken both the Houses of the Legislature into confidence before they submitted their proposals to the Election Commissioner.

“ It is indeed a matter of pride for us that we are now in a Republic. Our Republic is a new-born Republic. Our Constitution is a novel one which may perhaps be copied by many other countries in future. Our Constitution has given us very many privileges and rights. Now it lies on us to interpret the Constitution. We, the representatives of the people, and the Government are the persons who have to interpret the Constitution. I feel we have been denied

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the right to express our views before the proposals of the Madras Government were formulated and sent to the Election Commissioner. If they had been placed before us, we would have given the Government our concrete suggestions."

THE HON. SRI B. GOPALA REDDI :—" The House will have an opportunity to discuss them."

JANAB ABDUL LATIF FAROOKHI :—" The opportunity will come when it is too late. Perhaps after the proposals have been formulated and placed before the Election Commissioner and accepted by the President, they will come before the House for discussion. I am subject to correction, Sir.

" What I want is that before the President of the Republic pronounces the final word, he must know what the views of this Legislature are."

MR. CHAIRMAN :—" I suppose the point of the Leader of the Opposition is that this Government should send up the proposals of the Members of this House and their proposals also and not their individual proposals."

JANAB ABDUL LATIF FAROOKHI :—" Yes. Thank you, Sir. This Government should have sent their proposals after consultation with the representatives of the people.

" It is therefore against the spirit of democracy to formulate proposals and send them secretly without the knowledge of the Legislature, to the Government of India."

4-30
p.m.

THE HON. SRI B. GOPALA REDDI :—" Does the hon. Member want that no communication should be addressed to the Government of India without the knowledge of the Legislature? "

JANAB ABDUL LATIF FAROOKHI :—" I do not wish that you should inform this House with regard to administrative matters. But here is a matter which is connected with the Constitution and with the rights of the people and there is nothing secret about it. This is a matter in which you should have consulted the Legislature beforehand. I do not for a moment suggest that you should take our consent in all matters. There are certain matters which will be your exclusive concern and in which you will have to deal with the Government of India direct. I have no quarrel with you in such matters and I do not dispute your right regarding those matters. But, so far as the subjects of delimitation of constituencies and election procedure are concerned, I submit that the Government ought to have placed their proposals before the Legislature and then sent their proposals. These must have been thoroughly discussed by the Legislature and the Legislature should have given its support and consent to Government measures. Then only the Government views can be said to be the State's considered views. Now you have sent the proposals without the support of the Legislature. So, I do not agree with the Hon. Finance Minister in this respect.

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"With regard to adult franchise, I have given more than once my own misgivings. Though I am generally in favour of this, I would say that adult franchise will have no meaning in the present circumstances. What is the use of asking anybody and everybody who is 21 years of age to go to the polls without knowing what an election is and to whom he is voting and all that. Then the question of education comes in. I do not want to enter into that subject just now. Anyhow, I want to urge upon the Government that they must deal with this problem very carefully and delicately. In this matter, I would agree with the Hon. Finance Minister, or rather I would wish him to agree with me when I say, that a list will be prepared by any party that has got its ear towards the public containing the names of about 375 representatives or so and the people will be told 'Well here are your representatives. You add your tick marks to these gentlemen'. That would be the state of affairs in adult franchise. People will not know for whom they are voting.

"Coming to the ballot system, i.e., the coloured box system, I would like to say that as far as my experience goes, this system has proved to be a hopeless failure. Quite recently, i.e., about a year back, when I was returning from a City Municipal Election booth, I was taking some voters along with me to their homes."

MR. CHAIRMAN :—"That is usually not done."

JANAB ABDUL LATIF FAROOKHI :—"I agree that it is generally not done. But some of these people were taken by car to the polling booth by the concerned parties, but after these people have put their votes, there was nobody to take them back to their homes and were stranded. So when I returned from the booth, I took some of them. On our way I asked them for whom they put their votes. They told the colour of the box and also the name of the person for whom they voted. To my surprise I found that the coloured box which they mentioned was not the one intended for the person they mentioned. Presumably these people were misled by the agents of the other candidate. So these people put their votes into the wrong box thinking that they were voting for the correct person.

"Again, there is the watcher system. I am glad that the Hon. Minister has told us that the Government wanted to do away with this system. If you want to do away with this system, how are you justified in having these colour boxes. In my opinion, the best way of voting is the marking system. How can you say that they will not be able to get along with this ticking system when you are proceeding on the assumption that they will be all literates. (Voices : 'It is not based on literacy.') Literacy may not be compulsory. But what is the meaning of adult franchise without it. Are you going to give the right of voting to persons who do not know for whom they are voting. (An hon. Member : 'That is what they are going to do.') If they did it, I say that it is contradiction. You must give the power of voting only to those who know for whom they are voting and for what purpose they are voting. It is

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only when they know these things, they can select the right kind of representatives. It is no use saying to these people, 'Well, go to the polling booth. Put your vote in the coloured box mentioned by us'. If this is done, I am sure the right type of people will not be returned to the Legislature. People who have done some little service to the country and who know something of administration should be elected by the voters. The real masters of the country are the general public, I mean the voters. I will never like my master to be an ignorant fellow, but would like him to know at least for whom he is voting, whom he is sending to the Legislature, and what sort of work that man would be able to do. Therefore I proceed on the assumption that adult franchise means adult education. Without adult education, there is no meaning in having adult franchise. So, I am opposed to the coloured box system.

"The Hon. Finance Minister said something about plural constituencies or multiple constituencies with regard to the scheduled castes and the scheduled tribes. He has conceded a certain principle that the constituencies will be clubbed together for the tribal people. That means to say that he knows or perhaps feels that these constituencies clubbed together will elect two representatives and so, that will be a wider franchise and people will have opportunities of being elected. He also said that in certain places where a certain class of people or a certain community of people are in a majority, they can have that as their constituency. He said that if Harijans were in a majority in a particular place, they will have a constituency. I would humbly request that the same principle may be extended to other cases also."

THE HON. SRI B. GOPALA REDDI:—"If the Constitution does not permit it, what shall we do?"

JANAB ABDUL LATIF FAROOKHI:—"Our Constitution approves of double constituencies or plural constituencies for depressed classes and Harijans. I do not question the correctness or validity of the Constitution Act. But personally I am opposed to reservation for anybody—be it Christians, Muslims or Scheduled Castes. If you want to do away with separate electorates, there is no meaning in having reservation of seats. These reserved seats are only intended to bring in such people as will be amenable to their own behests and who will be subservient to them. I am not speaking of any particular party in this connexion. My point is that any party that seeks to have reserved seats would bring in only such people as will be amenable to them so that they can have the whole monopoly in the Legislature. After all what is the fate of these reserved seats? Suppose a Harijan stands for election to a reserved seat. What will be his position? Are we not able to understand it or have we not understood it in the past? In the last elections, the Congress was in a majority. So the candidate set up by the Congress for one of these reserved seats was declared elected. (Interruption.) After the advent of independence, after the advent of democracy and after the establishment of the Republican form of Government in the country, there is no use of having separate electorates."

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MR. CHAIRMAN :—“ I think the hon. Leader of the Opposition is straying away from the main point. I think I can give him some argument to support his case. His point, I suppose, is that the Constitution does provide for plural constituencies.”

JANAB ABDUL LATIF FAROOKHI :—“ What I want to say is that there is no use of having reservation of seats.”

MR. CHAIRMAN :—“ Why should you worry about that especially when there is no objection according to the Constitution to have plural constituencies? ”

JANAB ABDUL LATIF FAROOKHI :—“ I am thankful to you, Sir, for your kind elucidation. Of course, there is no objection to plural constituencies. But my point is that all persons must be enabled to stand for election by their own efforts and with the confidence of the masses, and without the fear or favour of the political party that may be in power. For instance, in a particular constituency where Muslims have got some considerable votes and where the non-Muslims have also got considerable votes, you should allow the Muslim candidate to stand from that constituency, so that he could, through the votes from his own community as well as of other communities, be elected without any favour from any party or community. The only thing that will be required for him is the confidence of the people.”

MR. CHAIRMAN :—“ What happens in a plural constituency where two Hindus and a Muslim stand? ”

JANAB ABDUL LATIF FAROOKHI :—“ I have that experience also in connexion with the municipal elections, where a Muslim and a Hindu candidate were elected.”

MR. CHAIRMAN :—“ That does not necessarily follow always. It may be that both the Hindus might be elected.”

JANAB ABDUL LATIF FAROOKHI :—“ I agree that may also be the case. But there is also a possibility of a Hindu and Muslim being elected. I do not want that anything specific should be insisted upon. What I said is that there is a possibility of the minority communities also getting themselves elected by such a method. In cases where they do not get elected, I have no grievance at all. I would impress upon the Hon. Finance Minister to place this point of view before the Election Commissioner.”

THE HON. SRI B. GOPALA REDDI :—“ Does the hon. Member want cumulative voting or distributive voting? ”

4-45
p.m.

JANAB ABDUL LATIF FAROOKHI :—“ I do not mind whether it is cumulative voting or distributive voting. I would agree to anyone of the two. My submission is that a certain system and procedure should be evolved by which there will be a possibility of the members of the minority communities coming through general elections, into the Legislature, without any favour from the party in power or the party that may have the majority of votes. To-day it is the Congress Government that is in office. On one point I

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want to be very plain and I hope that I am voicing the feelings of a majority of the Muslim community. (Interruption.) Whatever may be our differences of opinion, I am prepared to throw a challenge and to face any audience and say that the view of the majority of the Muslim population is that the Congress is a much better party on which they can depend but, if any other party comes, they have their own misgivings. We are sure that so long as the Congress is in power, they will give some seats to the minority communities. But we do not know how long they are going to be here. There is no guarantee. Other parties may come into power. Therefore, a system that would automatically ensure protection to minorities should be evolved. It is for this reason that I advocate plural constituencies. If there are plural constituencies there will be a possibility of the minorities being returned. After all, the Government will not lose anything by having these. If a Christian is put up along with a Hindu or if a Harijan is put up along with a Hindu, there is every possibility of the Christian or the Harijan or a Muslim, if one is put up, to be returned with the support of people belonging to the mixed constituencies. So far as minorities are concerned, let them understand it that unless we mix up freely with others and become common citizens our position will be at stake. What will happen if an election were to take place now? The position will be the same unless we have a certain amount of confidence in the majority community. It is no use a few Harijans, a few Christians and a few Muslims sit in the Council or the Assembly. That will not help at all. We cannot blind ourselves to these facts. Our eyes cannot be closed. It is, therefore, that I have proposed in my amendment—I am sorry, I did not read out my amendment to the House when I began to speak on the Motion—that all the constituencies should be multiple, each consisting of a population of at least 2 lakhs and represented by two members. I have also proposed that the colour box system should go and X mark system should be adopted. I think if the Government take a reasonable view, if the Government are not adamant and if they do not stand on what is called 'prestige', they can very well accept my amendments. I would go a step further and say that I shall not be much worried even if they are not accepted by the Government. It would suffice if the Government give an assurance that these proposals will be kept in view at the proper time so that a reasonable representation may be vouchsafed for the minorities.

"Sir, I would now come to the conduct of elections. My Hon. Friend, the Finance Minister, said that nobody ever tampered with elections. Sir, my own experience is—I would request the Finance Minister to pardon me—that there has been very much tampering in certain places and I have myself been once a victim of such tampering. In the year 1934"

THE HON. SRI B. GOPALA REDDI:—"At least the Congress Party had no difficulty in fighting elections when the Justice Party was in power in spite of their occupying office."

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JANAB ABDUL LATIF FAROOKHI :—" I am not concerned with the Congress Party or the Justice Party or the bureaucratic party which is gone. I am speaking of things in general. I say that the Government should place sufficient safeguards to ensure fair elections . . . "

DR. A. LAKSHMANASWAMI MUDALIYAR :—" May I request the Leader of the Opposition to enlighten us as to how elections were tampered with? "

JANAB ABDUL LATIF FAROOKHI :—" I am thankful for the interruption. (Laughter.) I stood for election to the Central Assembly in 1934. In 1926 also I stood for election when I had four rival candidates and I won the election polling many more votes than were polled by all the other candidates put together. But in the later election I was defeated by five votes. I then opposed the Congress candidate—Mr. Umar Ali Sahib. The reason for my defeat was that one of the ballot boxes was sent away from one constituency to another. And even during polling I had to intervene on several occasions when the polling officer was inclined to show favour to a particular candidate. I had to protest and make representations to higher quarters. The box which was sent away to another constituency contained eight votes for me and all of them were declared invalid. I then had to make an election petition to His Excellency the Viceroy by paying Rs. 1,000 . . . "

THE HON. SRI B. GOPALA REDDI :—" What was the result? "

JANAB ABDUL LATIF FAROOKHI :—" I had to point out where my box went. I was a candidate representing the whole of Andhra and Ceded Districts . . . "

MR. CHAIRMAN :—" I would request the hon. Member not to show his back to me and speak. (Laughter.) Is it his case that the box was sent to another constituency by design? "

JANAB ABDUL LATIF FAROOKHI :—" That is what I felt and even now feel. (Laughter.) I still feel that the invalid votes should have been taken into account while announcing the result. I made several protests and yet nobody would listen to them. Everybody turned a deaf ear. There were as many as 600 polling stations . . . "

DR. A. LAKSHMANASWAMI MUDALIYAR :—" May I submit, Sir, that according to the hon. Member he polled more votes than were polled by all his four rivals put together in the 1926 election and that in 1934, even if he had won, he would have won only by three votes? Does it not clearly show that the hon. Member did not enjoy the same confidence in 1934 as he did in 1926? " (Laughter.)

JANAB ABDUL LATIF FAROOKHI :—" I won by a sweeping majority in the first election because votes were divided . . . "

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MR. CHAIRMAN :—“ As the hon. Member says, there were as many as 600 polling stations and so it is possible that one box may be sent to a particular place by mistake. Why should he say it is by design? ”

JANAB ABDUL LATIF FAROOKHI :—“ I could understand such wrong despatch had I not had occasion to witness the behaviour of the polling officers towards particular candidates . . . ”

THE HON. SRI B. GOPALA REDDI :—“ How can the Government help it? The polling officers will always be there. ”

MR. CHAIRMAN :—“ Polling officers will be there always. The only point to be considered is, ‘ do we expect any democratic Government of the present day to openly or surreptitiously tamper with elections. ’ Is it not reasonable and fair to examine whether such things take place in any part of the world where during elections one of the rival parties is in power, and whether such an interference proved detrimental to the interests of other parties? ”

JANAB ABDUL LATIF FAROOKHI :—“ I do not blame the Government. I want them to give proper guidance to the people . . . ”

MR. CHAIRMAN :—“ That they will surely. ”

JANAB ABDUL LATIF FAROOKHI :—“ I do not say that the Government will wilfully tamper with elections. What I want them to do is, they should instruct their subordinate officers who happen to be polling officers that they should not take sides. Recently a conference of all parties in opposition to the Congress was held in Bombay which has sent in a representation to the Government of India asking for fair elections. The parties in conference did not think that the Hon. the Prime Minister of India would stoop to such a low level of tampering. But they feared that instructions given by the Government would not be properly carried out by the polling officers. That is why they waited in deputation on the Prime Minister . . . ”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Sir, I am sorry to interrupt my hon. Friend. May I invite his attention to Article 324 (6) of the Constitution which says :

‘ The President, or the Governor or Rajpramukh of a State, shall, when so requested by the Election Commissioner, make available to the Election Commissioner or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1). ’

So, it is obvious that the Government does not come into the picture at all. It is the duty and the responsibility of the Governor of the State to make available to the Election Commissioner such staff as is required. All statement about the polling officers made by my hon. Friend is unfair. The question of polling officers acting at the behests of the Government will not therefore arise. ”

JANAB ABDUL LATIF FAROOKHI :—“ I know what the Governor is in the present set-up. He acts on the advice of the Ministers and therefore, I say that they must guide the Governor

[Janab Abdul Latif Farookhi] [7th August 1950]

properly (laughter). Sir, I have heard the speech of the Finance Minister and it was very graceful and very informing. I would now request him to accept my amendments."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" Sir, I second the amendments."

MR. CHAIRMAN :—" As there are many members to speak discussion on the motion will be continued to-morrow. The House will now adjourn to meet at 2-30 p.m. to-morrow."

The House then adjourned.

VII.—PAPERS LAID ON THE TABLE OF THE HOUSE.

1. *Appropriation Accounts, 1947-48 and the Audit Report, 1949, and corrections to the Appropriation Accounts, 1947-48 and Audit Report, 1949.*

2. *Finance Accounts, 1947-48 and the Audit Report, 1948.*

3. *Bills passed by the Assembly and received therefrom in the Council—*

(1) *The Madras Weights and Measures (Amendment) Bill, 1950.*

(2) *The Dangerous Drugs (Madras Amendment) Bill, 1950.*

(3) *The Andhra University Amendment Bill, 1950.*

(4) *The Indian Criminal Law (Madras) Amendment Bill, 1950.*

(5) *The Legal Practitioners (Madras Amendment) Bill, 1950.*

வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

7th August 1950]

APPENDIX I.

[Vide item V on page 92 supra.]

A Bill to amend the Madras Weights and Measures Act, 1948.

(As passed by the Assembly.)

Madras Act
XXII of
1948.

WHEREAS it is expedient to amend the Madras Weights and Measures Act, 1948, for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Madras Weights and Measures (Amendment) Act, 1950.

2. In the Madras Weights and Measures Act, 1948, after section 20, the following section shall be inserted, namely :—

Insertion of
new section
20-A in
Madras Act
XXII of
1948.

“ 20-A. During a period of two years commencing on the date with effect from which the provisions of this Act other than section 1 are applied to any areas in the State—

Sections 8, 9
and 20 not
to apply to
the pagoda
weight

(i) nothing contained in section 8 shall, in such area, apply to the pagoda weight, that is to say, a weight equivalent to 54.79 standard grains, or to any weighing instrument calibrated with reference to such weight; and

(ii) nothing contained in sections 9 and 20 shall be deemed to prohibit the use or possession in such area, of such pagoda weight or weighing instrument, for the purpose of transactions or dealings in, or contracts relating to, gold or silver.”

APPENDIX II.

[Vide item V on page 96 supra]

A Bill further to amend the Dangerous Drugs Act, 1930, in its application to the State of Madras.

(As passed by the Assembly.)

Central Act
II of 1930.

WHEREAS it is expedient further to amend the Dangerous Drugs Act, 1930, in its application to the State of Madras, for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. (1) This Act may be called the Dangerous Drugs (Madras Amendment) Act, 1950.

Short title
and exten.

(2) It extends to the whole of the State of Madras.

Central Act
II of 1930.

2. In sections 29 and 30 of the Dangerous Drugs Act, 1930, for the words “Excise Department”, the words “Excise or Prohibition Department” shall be substituted.

Amendment
of sections
29 and 30,
Central Act
II of 1930.

[7th August 1950]

APPENDIX III.

[Vide item V on page 96 supra]

A Bill further to amend the Andhra University Act, 1925.

(As passed by the Assembly.)

WHEREAS it is expedient further to amend the Andhra University Act, 1925, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Andhra University (Amendment) Act, 1950.

Amendment of Madras Act II of 1926.

2. In the Andhra University Act, 1925 (hereinafter referred to as the said Act)—

Madras Act II of 1926.

(i) in section 18, under the heading "Class II—Other Members", in clause (3), for the words "one shall be a person recommended by the Maharaja Saheb of Jeypore", the words "two shall be persons recommended by the Maharaja Saheb of Jeypore", and for the words "a person shall be so nominated on the recommendation of the Maharaja Saheb" occurring in the proviso, the words "two persons shall be so nominated on the recommendation of the Maharaja Saheb" shall be substituted;

(ii) in section 19-A, in clause (4), for the words "the member nominated to the Syndicate on the recommendation of the Maharaja Saheb of Jeypore", the words "a member nominated to the Syndicate on the recommendation of the Maharaja Saheb of Jeypore" shall be substituted.

Temporary Amendment of section 18, Madras Act II of 1926.

3. Until the reconstitution of the Syndicate next after the commencement of this Act, or if before such reconstitution one of the four members of the Syndicate who were nominated by the Chancellor otherwise than on the recommendation of the Maharaja Saheb of Jeypore or his successors vacates office, until the date on which such vacancy occurs, clause (3) under the heading "Class II—Other Members" in section 18 of the said Act shall have effect as if for the words "five persons" occurring therein, the words "six persons" were substituted.

APPENDIX IV.

[Vide item V on page 97 supra]

L.A. BILL No. 17 OF 1950.

(As passed by the Assembly.)

A Bill further to amend the Indian Criminal Law Amendment Act, 1908, in its application to the State of Madras.

WHEREAS it is expedient further to amend the Indian Criminal Law Amendment Act, 1908, in its application to the State of Madras, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Central Act XIV of 1908.

Short title and extent.

1. (1) This Act may be called the Indian Criminal Law Amendment (Madras) Act, 1950.

(2) It extends to the whole of the State of Madras.

7th August 1950]

Central Act
XIV of
1908.

2. In section 15, sub-section (2), of the Indian Criminal Law Amendment Act, 1908 (hereinafter referred to as the said Act), for clause (b), the following clause shall be substituted, namely :—

Amendment
of section 15,
Central Act
XIV 1908.

“(b) which has been declared by the State Government by notification in the Official Gazette to be unlawful on the ground (to be specified in the notification) that such association—

- (i) constitutes a danger to the public peace, or
- (ii) has interfered or interferes with the maintenance of public order or has such interference for its object, or
- (iii) has interfered or interferes with the administration of the law, or has such interference for its object.”

3. For section 16 of the said Act, the following sections shall be substituted, namely :—

Substitution
of new
sections for
section 16,
Central Act
XIV of 1908.

“16. (1) A notification issued under clause (b) of sub-section (2) of section 15 in respect of any association shall—

Procedure
for issue of
notification
declaring
association
to be unlaw-
ful.

(a) specify the ground on which it is issued, the reasons for its issue, and such other particulars, if any, as may have a bearing on the necessity therefor; and

(b) fix a reasonable period for any office-bearer or member of the association or any other person interested to make a representation to the State Government in respect of the issue of the notification.

(2) Nothing in sub-section (1) shall require the State Government to disclose any facts which it considers to be against the public interest to disclose.

16-A. (1) After the expiry of the time fixed in the notification for the making of representations in respect of the issue thereof, the State Government shall place before an Advisory Board constituted under sub-section (2) a copy of the notification and also of the representations, if any, received before such expiry.

Reference to
Advisory
Board and
cancellation
or modification
of notifi-
cation.

(2) The State Government shall, whenever necessary, constitute one or more Advisory Boards; and each such Board shall consist of three persons who are, or have been, or are qualified to be appointed as, Judges of the High Court, and one of them shall be its Chairman. The Chairman and the other members of each Board shall be appointed by the State Government.

(3) The Advisory Board shall, after considering the materials placed before it and, if necessary, after calling for such further information as it may deem fit from the State Government or from any office-bearer or member of the association concerned or any other person, submit its report to the State Government.

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(4) The report of the Advisory Board shall specify in a separate part thereof its opinion or that of the majority of its members as to whether or not there was sufficient cause for the issue of the notification in respect of the association concerned.

(5) Nothing in this section shall entitle any person to attend in person or to appear by any legal representative in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part thereof in which its opinion or that of the majority of its members is specified, shall be confidential.

(6) In any case where the Advisory Board or a majority of its members has reported that there is no sufficient cause for the issue of the notification in respect of the association concerned, the State Government shall cancel the notification in respect of such association."

Amendment
of section
17-A,
Central Act
XIV of 1908.

4. In section 17-A of the said Act, after sub-section (2), the following sub-sections shall be inserted, namely :—

"(2-A) Any person aggrieved by a notification issued under sub-section (1) in respect of any place may, within thirty days from the date on which such notification is published in the Official Gazette, apply to the District Judge of the district in which such place is situated, or if such place is situated in the Presidency-town, to the Chief Judge of the Small Cause Court, for a declaration that the place has not been used for the purposes of any unlawful association and if such District Judge or Chief Judge makes such declaration, the State Government shall cancel the notification in respect of the place.

(2-B) In disposing of an application under sub-section (2-A), the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims so far as it can be made to apply ; and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final."

Central Act
V of 1908.

Amendment
of section
17-F,
Central Act
XIV of 1908.

5. In section 17-F of the said Act, for the words, figures and letters "save as provided in sections 17-B and 17-E", the words, figures and letters "save as provided in sections 17-A, 17-B and 17-E" shall be substituted.

Saving.

6. (1) All notifications issued in respect of associations by the State Government before the commencement of this Act under section 16 of the said Act and not cancelled before such commencement shall, as from such commencement, have effect as if they had been issued under section 15 (2) (b) of the said Act as amended by this Act :

Provided as follows :—

(i) In the case of every association to which any such notification applies, the State Government shall issue

7th August 1950]

a supplementary notification as soon as may be after the commencement of this Act, specifying the ground, the reasons and the particulars, if any, referred to in section 16 (1) (a) of the said Act as amended by this Act, and fixing a reasonable period for the making of the representations referred to in section 16 (1) (b) of the said Act amended as aforesaid ;

(ii) the procedure prescribed by section 16-A of the said Act, as amended by this Act, shall be followed thereafter.

(2) All notifications issued by the State Government before the commencement of this Act under section 17-A of the said Act and not cancelled before such commencement shall, as from such commencement, be deemed to have been issued under section 17-A of the said Act as amended by this Act :

Provided that an application may be filed under section 17-A (2A) of the said Act as amended by this Act in respect of any such notification within thirty days from the commencement of this Act.

(3) All other notifications and orders issued before the commencement of this Act under any other provision of the said Act and not cancelled before such commencement shall, as from such commencement, have effect as if they had been issued under the corresponding provision of the said Act as amended by this Act.

APPENDIX V.

[Vide item V on page 123 supra.]

L.A. BILL No. 15 OF 1950.

(As passed by the Assembly.)

A Bill further to amend the Legal Practitioners Act, 1879, in its application to the State of Madras.

Central Act
XVIII of
1879.

WHEREAS it is expedient further to amend the Legal Practitioners Act, 1879, in its application to the State of Madras, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Legal Practitioners (Madras Amendment) Act, 1950. Short title.

Central Act
XVIII of
1879

2. To section 25 of the Legal Practitioners Act, 1879, the following further proviso shall be added, namely :— Amendment of section 25, Central Act XVIII of 1879.

“Provided further that no stamped paper shall be required for the renewal of a certificate to practise as a pleader granted to a person who had enrolled himself for life as a vakil of the Chief Court, Pudukkottai.”

I certify that this is a Money Bill.

J. SIVASHANMUGAM PILLAI.

[7th August 1950]

APPENDIX VI.

[Vide answer to starred question No. 8, asked by Sri R. Suryanarayana Rao, at the meeting of the Legislative Assembly, held on 7th August 1950, page 88, supra.]

G.O. No. 1097, Health, 25th March 1950.

[Town-planning—Report of the Madras Provincial Town-Planning Enquiry Committee—Recommendations—Orders passed.]

READ—the following paper :—

G.O. No. 3578, P.H., dated 29th October 1947.

Order—No. 1097, Health, dated 25th March 1950.

In October 1947, the Government constituted a committee to report on the amendments to the Town-Planning Act, 1920, with a view to ensure the expeditious execution of town-planning schemes, the methods of rationalising the levy of betterment contribution, the methods for organizing Town-Planning departments, the provision of adequate technical staff, the financing of schemes, etc., and also to draft, if considered necessary, a comprehensive Town-Planning Bill. The Committee has submitted a comprehensive report on all matters concerning town-planning. The Committee did not take up the task of drafting a comprehensive Bill as, in its opinion, the Government should take it up with proper technical and legal advice after the consideration of the report. It has, however, suggested certain amendments to the Town-Planning Act and the Town-Planning Rules. The Government have carefully examined the recommendations of the Committee and they proceed to pass orders on the recommendations as shown in the appendix to this order.

(By order of His Excellency the Governor)

T. M. S. MANI,
Secretary to Government.

APPENDIX.

Recommendations of the Town-Planning Enquiry Committee.

(1)

- 1 Research on town-planning should be undertaken with special reference to town-planning in ancient India.
- 2 A simplified form of the general town-planning schemes should be adopted and the Madras Town-Planning Act, 1920, should be amended so as (a) to make the preparation, publication, sanction and enforcement of such schemes statutorily obligatory within a fixed time-limit, (b) to provide for the manner of preparation, publication, etc., as in the case of detailed town-planning schemes and (c) to include in the schemes, matters mentioned in section 4 of the Act.
- 3 It is desirable that a general town-planning scheme should be prepared in respect of every local area which is administered by either a municipal council or a panchayat board.
- 4 The preparation of the draft scheme (Master plan) should be carried out in the initial stages by the Director of Town-Planning, who should be given adequate technical and other staff as may be necessary.

Orders of Government.

(2)

The Government consider that it is not necessary for a State Government to undertake the research work in town-planning.

The Government consider that no time-limit need be fixed in the Act itself and that it would be sufficient to take power under the Act to fix such time-limit, as the Government may consider necessary from time to time, on the merits of each case. Subject to this, they propose to take steps to amend the Madras Town-Planning Act, 1920, with a view to give effect to the recommendation.

Under section 8 of the Act, it is obligatory on the part of municipal councils to prepare general town-planning schemes. The Government propose to make provision in the Town-Planning Act for compelling all panchayats, which are urban in nature and where staff and other facilities exist, to prepare general town-planning schemes.

The Government consider that schemes should be prepared by local authorities as at present with the assistance of the office of the Director of Town-Planning in difficult cases. But the position will be reviewed when the financial position of the State improves and the paucity of trained town-planning staff ceases to exist.

7th August 1950]

APPENDIX

Recommendations of the Town-Planning Enquiry Committee.

(1)

5 The provisions of the Government Buildings Act, the Indian Railways Act, the Indian Electricity Act and other laws and rules which grant exemptions to all developments including building operations undertaken or carried out by Government departments, statutory undertakings or other public bodies from the Madras Town-Planning Act, 1920, the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, or the Madras Local Boards Act, 1920, should be amended by deleting such exemptions.

6 Any transfer of property within the area of the general town-planning scheme should be registered by the Registration department only when it is accompanied by a certificate to be granted by the executive authority of the local planning authority, to ensure that the proposed transfer does not contravene any of the provisions of the general town-planning scheme or any detailed town-planning scheme sanctioned or under preparation or any of the provisions of the Madras Town-Planning Act, or any of the provisions relating to street making, layouts and building regulations, i.e., Chapters IX and X of the Madras City Municipal Act and the Madras District Municipalities Act.

7 The general town-planning scheme may be in respect of the entire municipal or panchayat area and a belt area all round and such suburban or satellite areas (if any), as may be necessary.

Orders of Government.

(2)

The schemes of Government departments are prepared by competent authorities and therefore the Government do not consider that it is necessary to accept this recommendation at present.

The matter is under consideration and orders will be issued separately.

The Government do not consider that they need take any action on this recommendation. The local authorities concerned should move the appropriate authorities for inclusion of the areas in their vicinity in the general town-planning schemes.

8 From the date of publication of a general Town-planning scheme, all developments shall be controlled by the executive authority on the lines of the draft scheme prepared by the Director of Town-Planning until the sanction of the final scheme by the Government. Thereafter, the control shall be exercised by the executive authority in accordance with the sanctioned scheme.

9 Any person, whose property is injuriously affected by any refusal to grant the permission applied for under the provisions of section 17 of the Act, shall, if he makes a claim for the purpose within the time, if any, limited by the general town-planning scheme not being less than three months after the date of publication of the final scheme, be entitled to obtain compensation in respect thereof from the local planning authority.

10 (a) The Town-Planning Act should be made into a Town and Country-Planning Act, so as to be automatically applicable to any area within the Province.

(b) The extension of the principles of town-planning to the countryside and the undertaking of schemes for various regional areas can be achieved only by a more comprehensive Town and Country-Planning Act on the lines of the English Town and Country-Planning Act.

11 No scheme should be allowed to get time barred.

In view of the orders on item 2 above, no separate orders are required on this recommendation.

The object of the Committee will be achieved when action is taken as proposed under item 2 above.

The Government do not accept this recommendation. The action proposed under item 3 is adequate for the present.

The Government do not consider that legislation as recommended by the Committee is necessary, in the financial and other conditions relating to staff, etc., existing in this State.

In view of the lack of qualified technical staff, the Government do not consider that any change in the existing procedure is feasible at present.

Recommendations of the Town-Planning Enquiry Committee.

(1)

- 12 Consistent with the need for adopting a particular procedure, a great deal of simplification should be effected to expedite the sanction of a scheme and the rules may be revised suitably so that it may be possible for a scheme to be published and sanctioned within the period recommended by the Committee.
- 13 The schedule of ownership which accompanies a scheme should furnish the names of owners also as it would help people to know or identify their property much better than if only the survey numbers and extents are given. The local planning authorities should maintain a separate register for each scheme showing the correct names of owners incorporating the changes occurring from time to time.
- 14 Long delays now taking place with the Government and their departments after submission of the schemes should be avoided as far as possible.
- 15 Ordinarily about 150 acres would be a proper area for a detailed town-planning scheme subject to departures wherever necessary.
- 16 Slum clearance schemes, schemes for the improvement of insanitary and unhealthy areas, replanning or rebuilding of existing built-up areas, etc., can and should be undertaken under the provisions of the Town-Planning Act and that necessary amendments to the Act should be made.

Orders of Government.

(2)

The Government do not consider that any change in the existing procedure is necessary at present.

In view of the provisions of section 13 (1) (b) of the Town-Planning Act, no further action is required in respect of the first part of the recommendation. As regards the second part, the Government consider that in order to enable the arbitrator to give notices to the correct owners, it is necessary that the executive authority should maintain a separate register of all transfers of property intimated to him under rule 66 of the Town-Planning Rules and make a timely report of all such transfers to the Arbitrator after he is appointed. The question of amending the Town-Planning Rules in this regard is under consideration.

There are no avoidable delays at present.

The Government do not consider it desirable to have a fixed area for all town-planning schemes arbitrarily. They commend this recommendation to local bodies for adoption wherever possible.

Most of the types of schemes referred to by the Committee can be undertaken by the local planning authorities in accordance with the existing provisions in section 4 of the Town-Planning Act. The Government do not therefore consider that an amendment of the Act is necessary.

17 All land development, housing, slum clearance, etc., schemes undertaken by whatever authority should be approved by the Provincial Ministry of Government.

18 The Town-Planning Act should be suitably amended so as to define in a more specific manner the constitution and working of the Joint Town-Planning Boards, their jurisdiction and extent of authority over the area of the Joint Scheme, their Joint responsibilities and powers and also the specific type or types of Joint Town-Planning Scheme or Schemes that may be taken up by such Boards for preparation, execution and control.

19 If building applications are disposed of within the time prescribed, the chances of unauthorized buildings springing up will be lessened.

20 Adequate training facilities should be afforded to produce large number of competent architects, engineers, etc.

21 Steps should be taken to ensure that lay-outs and building plans are prepared by qualified Town-planning architects, engineers, draftsmen or surveyors licenced for the purpose. Provision should be made for the registration of qualified and licenced architects, etc.

The Government do not accept this recommendation as it will discourage private enterprise and will throw considerable unnecessary work on Government Departments.

The Government agree with the Director of Town-Planning that no action is required in this matter at present as various reforms in the field of local administration are under consideration.

All local bodies are informed that applications for lay-outs, street making and building constructions should be dealt with promptly and disposed of within the prescribed time-limit. If the applications, etc., are not disposed of within the prescribed time-limit, executive authorities should send a report to the Director of Town-Planning immediately who should investigate and report to Government if any further action is required.

The recommendation is under consideration and orders will issue separately.

All local bodies including panchayats are requested to adopt the model by-laws relating to licensed surveyors, etc., approved in G.O. No. 413, P.H., dated 13th December 1948.

The question of registration of qualified architects is under consideration.

Recommendations of the Town-Planning Enquiry Committee.

(1)

- 22 Streets' appearance should receive adequate consideration.
- 23 The provisions contained in the Madras City Municipal Act, or the Madras District Municipalities Act regarding control or layout of towns and villages and street by-laws and Building Rules made under the Acts are inadequate and unsuitable to meet the modern town-planning requirements.
- 24 The need for incorporating the provisions relating to street control and building regulations in the Town-Planning Act itself should be examined in detail and should be gone into separately.
- 25 In all matters relating to laying out or subdivision of lands into sites for building purposes and of making streets by private parties or by private societies or firms, etc., the approval of the layouts should be by the executive authority and not by the municipal council or committee and in granting such approval the executive authority should consult the Director of Town-Planning and act upon his advice irrespective of whether such layout falls within a town-planning area or not. Provisions to this effect should be made in the expanded Town and Country-Planning Act.

Orders of Government.

(2)

Attention of the Madras Corporation and other municipal and panchayat authorities is invited to the provisions of sections 231 (1) (a) of the City Municipal Act and 193 (1) (a) of the Madras District Municipalities Act, 1920. The Government wish to impress on local bodies the need and importance of making use of these provisions. The Government consider that no specific orders are necessary in the matter. The local bodies should frame proper by-laws and when a 'Building Code' the preparation of which is engaging the attention of Government, is actually prepared, local bodies will have proper direction in the matter. The question of framing suitable by-laws to control development in Town-Planning and other areas and also of amending the Madras Town-Planning Act, 1920, the Madras District Municipalities Act, 1920, and the Madras City Municipal Act, 1919, in order to remove over-lapping of functions under present provisions will be considered after the proposed new Panchayats Act is passed and new panchayats have been constituted. Local bodies should strictly observe the instructions issued in G.O. No. 1920, Public Health, dated 26th May 1939. No amendment to the Town-Planning Act is considered necessary.

26 Housing occupies an important place in the framework of town and country planning and comprehensive housing legislation is required to secure co-ordination and for fitting the various schemes into the general framework of town-planning.

The recommendation is under the consideration of the Government.

27 The Town-Planning Act should be expanded so as to ensure proper and co-ordinated development of trunk roads and highways whether they run through or outside towns and villages and effective control of Ribbon Development which follows in the wake of the development of roads and communications throughout the province or country. Provision should be made in the Act for adequate means and facilities and power to secure such object under the schemes framed under the Act which may cover large areas through which the highways pass more or less for the various regions of the Province.

The matter is under consideration.

28 The determination of competing claims and the allocation of land for the various requirements must proceed on the basis of selecting the most suitable land for a particular purpose irrespective of the prevailing values and prospects attached to individual plots of land.

The Government consider that the existing provisions, particularly sections 4 (k) and (m) and 22 (l) of the Madras Town-Planning Act are quite adequate and they see no reason to accept the Committee's recommendation.

The law should be specific that no compensation for injurious affection shall be payable by a local planning authority as a result of such reservation and prevention of particular use of land.

Recommendations of the Town-Planning Enquiry Committee.

(1)

- 29 The method of merely setting apart particular areas within the municipalities and the panchayat areas for industrial purposes under section 4 (k) and (n) of the Town-Planning Act will not properly and effectively meet the requirements and facilities needed for industrial development in this country which should be based on a more comprehensive and positive planning policy and programme.
- 30 The local planning authorities should make provision for the housing of industrial workers with a view to prevent the development of insanitary and congested chris and colonies in the vicinity of Industrial buildings. Suitable housing schemes should be formulated for this purpose by local planning authorities in co-operation with owners of industries.
- 31 The Town-Planning Act and the Rules should be amended to contain provisions in respect of all matters of town-planning which should be applicable to all kinds of development in towns and villages as a matter of normal requirement and enforceable throughout their areas irrespective of the existence or otherwise of a town-planning scheme.
- 32 Suitable rules which are of ordinary application in towns and villages may be made by Government for the normal regulation of development.

Orders of Government.

(2)

The Government do not consider it necessary to accept the recommendation. The question however as to whether prior approval of the Director of Town-Planning for lay-outs for factories is necessary is being examined separately.

The Government accept the recommendation. All local authorities are informed that while framing Town-Planning Schemes they should bear in mind the need for providing housing for industrial labour wherever possible.

The Government consider that most of the development contemplated by the Committee may be controlled by framing model by-laws and that the question of framing suitable by-laws may be taken up after the new Panchayat Act has come into force so that the enforcement of the provisions of the proposed by-laws may be entrusted to the proper authorities, namely, the Panchayats.

In view of the orders on recommendation No. 31 no action on this recommendation is necessary.

33 For the successful carrying into effect of a Town-Planning Scheme it is necessary that some control is exercised over development during the interim period between the notification under section 10 or 12 and until the scheme is prepared, published, submitted and finally sanctioned by Government under section 14, by making suitable amendments to section 17 of the Act. The Committee recommends that the section may be recast as follows:—

- (1) After the publication of a notification under section 10 or section 12, no person shall erect or proceed with any building or work on or enter into or carry out a contract in respect of land within the area included in the scheme unless he has applied for and obtained permission from the executive authority of the local planning authority.
- (2) If the executive authority omits for two months from the date of receipt of such application to communicate to the applicant any order thereon, or, if within the said period he has received an order which does not fully comply with the application, the applicant shall have a right of appeal to the local planning authority. Such an appeal shall be filed within thirty days from the date of the receipt of the order or from the date of expiry of the period of two months aforesaid, as the case may be.

The Government agree generally that suitable amendments to the Act are necessary. The question of amending the Town-Planning Act with reference to the recommendations is being pursued.



Recommendations of the Town-Planning Enquiry Committee.

(1)

- (3) Such planning authority shall pass on the appeal such order as it deems fit within two months from the date of receipt of such appeal. Such order shall be final. If, however, no such order is passed within the said period of two months, the applicant shall be deemed to have been granted the permission applied for.

The Committee also recommends that—

- (i) the reasons for refusing applications should be stated by the executive authority (or appellate authority);
- (ii) to overcome the difficulty in enforcing the orders of the executive authority a sub-clause (4) may be added to section 17 on the lines of section 19 (1);
- (iii) provision should be made to prevent the granting of conditional licences;
- (iv) provision should be made to overcome the difficulties created by the parties often raising legal objections and resorting to litigation with a view to gain time and to circumvent rules;
- (v) A short report or pamphlet giving a summary of the essential provisions and the powers under the Act and a clear statement about the proposed scheme should be prepared in consultation with the Director of Town-Planning, and placed at the service of members of the local authority and the owners of land and other interested persons.

ers of Government.

(2)

As regards item (v), executive authorities of local bodies are requested to prepare along with the preparation of Town-Planning Schemes a short report or pamphlet giving a summary of the essential provisions of the Act and a clear statement about the proposed scheme in consultation with the Director of Town-Planning and place it at the service of the members of the local authority and the owners of land and other interested persons.

34 In cases where a Town-Planning Scheme is being made by a local planning authority for an area outside its limits, the payment of licence fees cannot be insisted on and permission under the Madras District Municipalities Act or the Madras City Municipal Act is not necessary. The proper course in such cases is to extend to such areas the relevant provision of the Municipal Act.

35 Provision as in section 17 (as re-drafted by the Committee) should be included under section 18 for dealing with applications received after sanction. It is also necessary to make provision in section 18 to require the executive authority to state the reasons for refusing an application.

36 Section 19 of the Town-Planning Act should be entirely re-drafted as the wording of it is not quite happy and as it is vague and indefinite.

The Committee recommends that the following amendment may be made to section 19 :—

In sub-section (3) of section 19 the words “and may be enforced” in the first sentence, shall be deleted.

And the following sentence shall be inserted as the second sentence :—

“If such work is still not carried out within the time specified, the executive authority or responsible authority, as the case may

The Government consider that provisions of section 39 (3) of the Madras Town-Planning Act, may be availed of to secure the object which the Committee has in view. Local bodies should, when submitting draft Town-Planning Schemes for the sanction of Government, specify also the areas in respect of which the extension of the Madras City Municipal Act or the Madras District Municipalities Act, as the case may be, may be necessary.

The Government agree with the Committee. The question of amending the Town-Planning Act is under consideration.

The Government agree with the Committee. The question of amending the Town-Planning Act is under consideration.

be, may, if he thinks fit, execute it and the expenses incurred shall be paid by the owners or occupiers in default, and such expenses shall be a first charge on the property on which it is due subject to the prior payment of land revenue, if any, due to the Government thereon and shall be paid in such instalments and manner as may be prescribed."

37 A rule should be framed by Government that before the local planning authority submits a scheme for sanction its local officers such as Public Health, Engineering, etc., should be consulted.

38 A local planning authority must have a constructive programme for the execution of the works proposed in a Town-Planning Scheme within a period of two to five years or more according to circumstances and a chart or schedule showing the order in which the various items of work proposed in the scheme should be taken up and executed year after year and the possible means of financing these and the amount of loans, if any, required from time to time. Such programme should be prepared in advance and incorporated in the scheme and the local planning authority or responsible authority should be bound by the scheme to carry out the works according to such programme.

39 Section 22 of the Town-Planning Act may be amended with a view to avoid certain inconsistencies.

The Government do not consider that a rule need be made. All local planning authorities are requested to consult their local public health, engineering, and other concerned officers before they submit schemes for the sanction of Government.

The question of amending the Madras Town-Planning Rules with a view to give effect to this recommendation is under consideration.

The Government observe that the recommendations are based on a misapprehension of the provisions of the Act. They do not therefore consider that an amendment of section 22 of the Act is necessary.

40 No specific particulars or details are furnished in Town-Planning Schemes of the limitation and scope of the claims for injurious affection liable to be made by owners and other interested persons. It is desirable that the draft scheme gives as far as practicable full particulars of the limitation and scope of such claims and the local planning authority submitting the scheme should work out the details of the possible claims for such compensation and make adequate provision for them in the schedule of the estimate of cost.

41 The system of Arbitration provided in Chapter V of the Act should be eliminated and claims for compensation for injurious affection should be filed before the executive authority of the local planning authority in such manner as may be prescribed and he may be empowered under the Act to decide upon the claims made after making proper enquiries. The parties may be given a right of appeal to a Civil Court against the decision of the executive authority and the decision of the court shall be final and binding on all persons.

42 Claims for compensation for injurious affection must be made only when works under the scheme have been sufficiently advanced or completed and certified by a competent authority and within a period to be fixed in the scheme not exceeding two years from the date of obtaining such certificate. This period fixed in the scheme for making any claim for injurious affection shall be brought to the notice of the

The Government accept the recommendation. The question of amending the Madras Town-Planning Rules is under consideration.

The Government have decided that no change in the existing practice is necessary.

The Government accept the recommendation. The question of amending the Town-Planning Act and the rules framed under the Act with a view to give effect to this recommendation is under consideration.

7th August 1950]

APPENDIX

Recommendations of the Town-Planning Enquiry Committee.

(1)

public in the notification of the Government sanctioning the scheme when it is published in the official gazette and also by publication of a notice in a local language newspaper.

- 43 Appeal to a Civil Court against the decision of the executive authority of a local planning authority in regard to the claims for injurious affection shall be made within sixty days from the rejection of the claim in whole or in part by the executive authority.

- 44 It should be open to the executive authority of a local body to enter into any agreement with a claimant in regard to the manner of payment of compensation whether by instalments or otherwise, or he may, instead of paying compensation adopt any other alternative method to avoid or mitigate payment.

- 45 The exact relationship that should exist between the executive authority and the local planning authority in the matter of disposal of claims for compensation should be specified to avoid future difficulties. In the settlement of claims for compensation the executive authority should be associated with a local committee of rate payers where such a committee already exists or which may be constituted for the purposes and such committee may be represented by Counsel before the executive authority or courts.

Orders of Government.

(2)

The Government do not accept this recommendation. The present limit of three months is not excessive.

The question of introducing a rule in the Town-Planning Rules with a view to give effect to the recommendation is under the consideration of the Government.

The Government do not accept this recommendation.

46 It is advisable wherever possible that in the interests of quick and easy preparation of schemes the local planning authorities should take up schemes for wholesale acquisition and development. This would go a long way to accelerate housing development.

47 Not only should a local planning authority have powers of compulsory acquisition of required lands in Town-Planning Schemes after their sanction but such powers should also be available even before the schemes are sanctioned or at any time after the first notification under section 10 or 12 has been made.

48 A local planning authority should be empowered to acquire land necessary for housing persons displaced by any Town-Planning Scheme (such rehousing being carried out as part of the scheme itself).

49 It is important that the lands required for a Town-Planning Scheme are acquired within the time specified in section 34 of the Town-Planning Act.

Local planning authorities are requested to take a comprehensive view in regard to the acquisition of land for town-planning purposes and to acquire as much land as will be required for the smooth execution of Town-Planning Schemes. The Government however consider that there can be no point in the local planning authorities acquiring land which is not likely to be needed for, or is not involved in the schemes.

The Government accept the recommendation. But they consider that the actual acquisition and the extent of land to be acquired should be decided with reference to the facts of each case, the funds available with the local bodies, the possibility of the danger of locking up of funds, etc. They consider that such power to acquire land should be exercised only with the sanction of the Government as usual.

The Government do not consider it necessary to approve the first portion of this recommendation. The question of amending the Town-Planning Act with a view to give effect to the latter part of the recommendation is under consideration. Necessary executive instructions in this regard will be issued after the Act has been amended.

The Town-Planning authorities should, with reference to the urgency of each case, press the authorities concerned to take further steps in the matter of acquisition of land. Each case will have to be dealt with on its merits.

Recommendations of the Town-Planning Enquiry Committee.

(1)

50 Section 34 of the Town-Planning Act may be amended extending the period of validity of the notification under section 14 of the Act as a declaration under section 6 of the Land Acquisition Act, from 3 years to 5 years.

51 There have been long delays in the time taken for the preparation, publication and sanction of schemes since the date of the first notification and it is recommended that certain modifications may be made to the existing procedure regarding payment of compensation, etc. It is suggested—

(1) in the case of all schemes notified under section 12 on or after 1st January 1944, the governing date for the payment of compensation should be the date of the first notification ;

(2) in the case of notifications made before 1st January 1944, but schemes not sanctioned till now the governing date for the payment of compensation should be the date of sanction of the schemes under section 14 whenever it may be ;

(of course, this recommendation will not affect cases which have been already sanctioned by Government though notified prior to 1st January 1944.)

Orders of Government.

(2)

The Government do not accept this recommendation.

The Government generally accept the recommendation.

The question of amending the Town-Planning Act with reference to this recommendation is under consideration. Necessary instructions in the matter will be issued after the Act has been amended.

(3) there is yet another class, i.e., schemes coming under sections 10 and 11 of the Act under which local planning authorities have published draft schemes under section 11, but because there is no provision to compel them to submit the schemes in any specified period, they have unduly delayed the submission of schemes and many years have passed since their publication under section 11. The same rules as stated above should apply for these cases also, viz., that if the section 10 notification was before 1st January 1944, then the governing date for compensation should be the date of sanction under section 14. If it is on or after 1st January 1944, then the governing date for compensation should be the date of section 10 notification.

52 In the interests of its present and future inhabitants the town or village should become the owner of land in undeveloped areas and suburban sections and thus influence their proper development.

The Government do not accept this recommendation.

53 (i) Adequate statutory provisions should be included in the Town-Planning Act for the various purposes of dealing with or disposal of land owned or acquired by local planning authority by lease sale or otherwise.

The Government do not accept this recommendation. The various statutory provisions now existing are sufficient.

Recommendations of the Town-Planning Enquiry Committee.

(1)

- (ii) Adequate powers should be vested in the Government to control and regulate the manner or method of disposal of land and the imposition and enforcement of suitable conditions and restrictions in all cases of such disposal by local planning authority.
- 54 Local planning authorities must not pursue a highest bidder policy in disposing of their land and they should not become land speculating bodies.
- 55 The present provisions relating to betterment contribution in sections 23, 24, 25 and 26 of the Town-Planning Act are unsatisfactory under the existing conditions. Alternate proposals regarding the levy of development or improvement charges may be considered.
- 56 The entire provisions of sections 27 to 29 (the whole of Chapter V) of the Town-Planning Act relating to arbitration should be deleted and the remaining functions which an arbitrator has to perform at present relating to the demarcation of streets, roads and other reserved sites in schemes and also of redistribution of boundaries and reconstitution of plots should also be entrusted to the executive or responsible authority who is generally more conversant with local conditions. It is however suggested that the executive or responsible authority should be enjoined to strictly follow the provisions of the schemes and rules and Act in due consultation with or approval of the Director of Town-Planning. In

Orders of Government.

(2)

As there are already sufficient safeguards, the Government do not consider it necessary to accept this recommendation.

The Government generally accept the recommendation of the Committee. They are however inclined to accept Sri Suryanarayana Rao's view. The question of amending the Town-Planning Act is under consideration.

The Government do not accept the recommendation of the Committee that the entire provisions of sections 27 to 29 of the Town-Planning Act (Chapter V) relating to arbitration should be deleted. The Government are, however, convinced that the present system of arbitration requires some modifications and certain suggestions have been received for improving the present system. The question of amending the Town-Planning Act and the Madras Town-Planning Rules with reference to these suggestions is under consideration.

the case of any objection made by any party on the decision passed by the executive or responsible authority to the demarcation of streets, etc., or redistribution of boundaries or reconstitution of plots, an appeal shall lie to the Government or other specified authority whose decision shall be final and binding on all persons concerned. The Town-Planning Act may make suitable provision for the above matters.

- 57 The financial provisions in the Town-Planning Act have not been satisfactory and have rendered Town-Planning progress and advancement almost impossible. The State should intervene in the planning and development of our towns and villages, in the rebuilding of slums, improvement and reconstruction of houses, etc., by investment of considerable capital. Suitable provision should be made in the Town-Planning Act to enable every local body for the creation and maintenance of an adequate local Town-Planning fund for meeting the deficits on account of particular schemes and to collect a special Town-Planning tax on properties lying within the local body area and in such additional belt area in the vicinity of such local body area as may be notified by the Government under the Act for the purpose.

The Government are unable to accept the recommendation of the Committee.

Recommendations of the Town-Planning Enquiry Committee.

(1)

- 58 Provincial Government in addition to making contributions towards the Town-Planning Fund of Municipal Councils (as recommended elsewhere) should set apart annually a particular sum of money out of the Provincial revenues and constitute a Provincial Town-Planning Fund for the purpose of affording easy facilities to all local planning authorities to obtain the funds they require in connection with the schemes undertaken by them under the Town-Planning Act and for enabling the Government themselves to give loans or grants or such other aid as the case may be, out of such fund to the local planning authorities as and when necessary.
- 59 Steps should be taken by the Government to establish immediately a separate Ministry for Town and Country-Planning and Housing.
- 60 The creation of a combined Town and Country-Planning and Housing Board is necessary to co-ordinate the work of Town-Planning and Housing and to advise the Ministry of Town and Country-Planning and Housing in the formulation of policies and programmes of work.
- 61 The existing strength of officers and staff of the Directorate of Town-Planning and the scales of pay attached to the various posts are inadequate and meagre when compared with the responsibilities and duties attached to them. The Directorate of Town-Planning may be suitably reorganized.

Orders of Government.

(2)

The Government are unable to accept the recommendation.

The Government do not accept the recommendation.

The Government do not accept the recommendation.

The Government do not accept this recommendation. The question of amending the Town-Planning Act and the Town-Planning Rules with a view to give effect to certain suggestions made by the Bhore Committee in this regard will be taken up separately.

62 There should be proper and adequate organization in all municipalities and other local body areas for carrying out Town-Planning works efficiently and expeditiously.

The Government do not accept this recommendation.

(1) The Committee has recommended the organization required for the various classes of municipalities each under a qualified Town-Planning Officer and has suggested also the scales of pay to be allowed for the posts. The Committee has also made recommendations in paragraph 348 of its Report regarding the set up of the organization for the Corporation of Madras under a qualified Chief Town-Planner and Architect.

(2) All Panchayats with a population of 10,000 and above should employ adequate town-planning staff as recommended by it. It has also suggested that Government should take steps to group the remaining panchayats and rural areas and appoint staff on a district or regional basis to work under District Panchayat Officers or such other suitable agency as Government may direct.

(3) The Town-Planning Officer of each local body should work under the concerned executive authority and should deal with the Central Directorate only through the executive authority and vice versa.



[7th August 1950]

Recommendations of the Town-Planning Enquiry Committee.

Orders of Government.

(1)

(2)

63 With a view to overcome the difficulty experienced by the Government and the local bodies on account of the paucity of qualified persons for employment as Town-Planning subordinates, the following recommendations are made:

The matter is under consideration.

(i) Institution of degree, licentiate and refresher courses in Town and Country-Planning and other allied subjects in the Engineering Colleges. (The nature of study and syllabuses for the courses have also been suggested.)

(ii) Importation of persons with necessary qualifications, i.e., at least two Professors in the subject from England or outside, on contract basis for five years for employment in the Engineering Colleges.

(iii) Deputation of candidates for foreign training in Town-Planning. The Government should depute two Engineering graduates of Madras State every year for special study in Town-Planning and Architecture for a period of five years; i.e., a total of at least ten persons may be deputed.

64 The Government should take very early steps to establish an Institute of Town and Country-Planning and Architecture in Madras simultaneously with the institution of special degree and licentiate courses in Town and Country-Planning.

The Government do not accept this recommendation.

65 Proper publicity or education of Town and Country-Planning principles and policies should be undertaken for public benefit and enlightened public opinion must be created to ensure successful administration and planning results.

The matter is under consideration.

66 The Town-Planning Enquiry Committee is not in favour of the proposal for undertaking legislation for the purpose of constituting Improvement Trust Boards in municipal or other local areas. The Committee recommends instead that a separate Town-Planning Board may be created in respect of each local body area by altering the provisions of sections 37 and 45 to 54 of the Town-Planning Act. The Committee also recommends that suitable modification may be made of section 38 of the Act to provide for the constitution of Joint or Regional Planning Boards in respect of two or more local bodies on the same lines as those of the Town-Planning Boards for single local bodies. In exceptional cases Government may take power to create Town-Improvement Trusts on the lines of the Madras City Improvement Trust.

The Government do not accept this recommendation of the Committee.

It is however considered that in the event of the Director of Town-Planning bringing to the notice of the Government ineffective Town-Planning works in a municipality the Government may well constitute a Town-Planning Trust in consultation with the municipality concerned in accordance with the existing provisions contained in Chapter IX (sections 45 to 54) of the Town-Planning Act.

67 The levy of a provincial tax on the letting value of immovable properties or a similar tax on the capital invested on new buildings and extensions in urban areas as suggested by the Government will be burdensome and detrimental to house building.

The Government agree with the observation made by the Committee.

